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SCOTT D WOFSY EDWARDS & ANGELL
ATTORNEY AGENT FOR APPLICANTS
INTELLECTUAL PROPERTY PRATICE GROUP
PO BOX 9169
BOSTON MA 02209

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DEC 2 0 2006

OFFICE OF PETITIONS

In re Application of
Dirk Landau et al.
Application No. 10/472,405
Filed: September 17, 2003
Attorney Docket Number: (49338)59913

ON PETITION

This is a decision on the petition filed December 4, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned on July 12, 2006 after the applicant failed to file a timely response to the Final Office Action mailed April 11, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner argues that the Final Office Action was not received and includes copies of the file jacket and docket to establish non-receipt.

A review of the file reveals that the Final Office Action was mailed to the address of record on April 11, 2006, but was returned by the US Postal Service on May 11, 2006 as undeliverable. Further the correspondence address is other than that which appears in the petition.

While petitioner provides proof of non-receipt, petitioner has not provided proof that an address change has been properly filed with the USPTO. The address of record is different from that appearing on the petition. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided

correspondence address, without mentioning the fact that an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c).

As petitioner has not presented any evidence that the address of record had been changed with the USPTO at the time the Final Office Action was mailed, and in the absence of petitioner showing that they acted responsibly with respect to providing the USPTO with up to date addresses, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

Providing docket records to show non-receipt does not overcome petitioners burden and is therefore not persuasive evidence that petitioners were without fault in the non-receipt of the Final Office Action.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

While a courtesy copy of this decision is being mailed to the address in the petition, all future correspondence will be directed to the address currently of record until an appropriate change of address is filed.

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of
Dirk Landau et al.
Application No. 10/472,405
Filed: September 17, 2003
Attorney Docket Number: (49338)59913

ON PETITION

This is a decision on the renewed petition filed June 21, 2007, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on July 12, 2006 after the applicant failed to file a timely response to the Final Office Action mailed April 11, 2006. A petition filed December 4, 2006 was dismissed in a decision mailed December 20, 2006. Subsequently, a Notice of Abandonment was mailed February 7, 2007.

Petitioner argued that the Final Office Action was not received and included copies of the file jacket and docket to establish non-receipt. However, the petition was dismissed because while the Final Office Action was mailed to the address of record on April 11, 2006, it was returned by the US Postal Service on May 11, 2006 as undeliverable however, it appeared that the correspondence address of record was different from that in the petition and it didn't appear that a change of address had been properly filed with the USPTO.

Comes now petitioner arguing that numerous attempts had been made to associate the instant application with a different customer number. Based on the evidence presented which includes correspondence from the USPTO which demonstrates that the request had been submitted, although it can't be determined why the association and update never occurred and if the reason the request was rejected was USPTO error or applicant error, petitioners have effectively demonstrated their diligent efforts to update the address by customer number and to ensure that correspondence mailed from the USPTO was properly addressed.

In view thereof, it is concluded that the Final Office Action mailed April 11, 2006,

Decision on Petition mailed December 20, 2006 and Notice of Abandonment mailed February 7, 2007 were all mailed to an incorrect address and never received at the intended address of record as they were returned by the United States Postal Service as undeliverable. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2162 for a re-mailing of the Final Office Action originally mailed April 11, 2006 and for a restarting of the period for response.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Eriksson et al. :
Application No. 10/472412 : ON PETITION
Filing Date: 09/16/2003 :
Attorney Docket Number: :
06275-362US1 100310-1P US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 23, 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 24, 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, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 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.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080724

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7388020

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Janet Andres/ Art Unit 1625

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William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 05/06/2010

Applicant	: Motohiro Nakasuji	: DECISION ON REQUEST FOR
Patent Number	: 7630001	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/472,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **570** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Gianni Canal	: DECISION ON REQUEST FOR
Patent Number	: 7644189	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/472,416	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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 of Patents

Cohen, Pontani, Lieberman & Pavane
551 Fifth Avenue
Suite 1210
New York, NY 10176

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AUG 02 2005

Director's Office
Group 3700

In re Application of :
RUB :
Serial No.10/472,419 : Decision on
Filed September 19, 2003 : Petition
For: Control Valve :

A Notice of Abandonment for failure to pay the Issue Fee on the above-identified application was mailed March 21, 2005. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.181 on March 17, 2005 after noting that the Issue fee was due by February 15, 2005 when viewing PAIR. In the petition applicant indicates that the Notice of Allowance and Issue Fee Due was never received. A declaration by F. Brice Faller, along with accompanying documents, is attached to the petition indicating that a thorough search was made of the file, file jacket and docket records. During that search no indication was noted that the Notice of Allowance and Issue Fee Due was received.

In view of the above, the Notice of Abandonment mailed March 21, 2005 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

27 SEP 2004

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Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
Yue et al.	:	
Application No.: 10/472,436	:	DECISION ON
PCT No.: PCT/US02/09073	:	
Int. Filing Date: 25 March 2002	:	PETITION UNDER
Priority Date: 23 March 2001	:	
Attorney Docket No.: 242054US6YA PCT	:	37 CFR 1.47(a)
For: Method And Apparatus For Endpoint	:	
Detection Using Partial Least Squares	:	

This is a decision on applicant's petition under 37 CFR 1.47(a) filed on 07 September 2004.

BACKGROUND

This international application designated the U.S., was filed on 25 March 2002 and claimed earliest priority of an application filed on 23 March 2001. Accordingly, the 30 month time period for payment of the basic national fee in the U.S. expired as of midnight on 23 September 2003. On 23 September 2003, applicants filed *inter alia* the basic national fee.

On 05 February 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.

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.

Regarding requirement (1), the petition fee accompanied the petition, satisfying requirement (1).

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor David Fatke be excused. The petition is accompanied by a "Declaration Pursuant To 37 C.F.R. § 1.47(a)" signed by Eric Strang which details how numerous copies of the application papers and declaration of the inventors form were transmitted to the last known address of David Fatke for his signature. The "Declaration..."

further describes how in a telephone conversation on 04 March 2004, Mr. Fatke stated that he "would execute the declaration after review by the Advanced Micro Devices' legal department." However, in view of the fact that Mr. Strang states that Mr. Fatke had not returned a signed declaration as of 07 September 2004, even after an additional copy of the declaration and application were transmitted to him on 09 July 2004, it would be appropriate to consider Mr. Fatke's failure to sign and return the declaration as constituting refusal to sign. Consequently, requirement (2) has been satisfied.

Regarding requirement (3), the petition includes a statement the last known addresses of Mr. Fatke. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the petition is accompanied by an appropriate declaration. Therefore, requirement (4) has been satisfied.

DECISION

The petition 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 an international filing date of 26 November 1999 under 35 U.S.C. 363. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **07 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.

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

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

27 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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David Fatke
8000 Davis Mountain Cove
Austin, TX 78726

In re Application of
Yue et al.
Application No. 10/472,436
PCT No.: PCT/US02/09073
Int. Filing Date: 25 March 2002
Priority Date: 23 March 2001
For: Method And Apparatus For Endpoint Detection Using Partial Least Squares

Dear Mr. Fatke:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6721 (or (571) 272-3283 after 30 September 2004). Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (David Fatke) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US02/09073 and was filed on March 25, 2002 in the names of Hongyu Yue and David Fatke for the invention entitled METHOD AND APPARATUS FOR ENDPOINT DETECTION USING PARTIAL LEAST SQUARES. The national stage application number is 10/472,436 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of September 07, 2004.

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Paper No.

STEPHEN A BENT
FOLEY & LARDNER
WASHINGTON HARBOUR
SUITE 500 3000 K STREET N W
WASHINGTON DC 20007-5143

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MAR 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,589,056	:	DECISION ON REQUEST
Matthews et al.	:	FOR
Issue Date: Sep. 15, 2009	:	RECONSIDERATION OF
Application No. 10/472,439	:	PATENT TERM ADJUSTMENT
Filed: Aug. 25, 2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
017227-0191	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 11, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-nine (1189) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-eight (1188) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 1, 2006 and ends on March 15, 2009, the day before the RCE was filed, and is 897 (not 898) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1188, not 1189 days.

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

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

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred eighty-eight (1188)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,589,056 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Matthews et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 829 days.

Delete the phrase "by 829 days" and insert – by 1188 days--

26 AUG 2004

#5

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of :
KOLBAKOV, Vambola et al :
U.S. Application No.: 10/472,445 :
PCT No.: PCT/EE01/00007 :
Int. Filing Date: 13 September 2001 :
Priority Date: 23 March 2001 : **DECISION**
Attorney Docket No.: 2329-0105P :
For: METHOD OF PRODUCTION OF :
BIOGRADABLE LACTIC ACID :
POLYMERS . . . :

This decision is in response to applicants' "Petition Under 37 C.F.R. §1.47(a)" filed with the United States Designated/Elected Office (DO/EO/US) on 13 August 2004.

BACKGROUND

On 15 January 2004, the 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 respond with extensions of time available.

On 13 August 2004, applicants filed the instant petition which was accompanied by, inter alia, the petition fee; a five-month extension and fee; a declaration signed by one of the three joint inventors; copies of two letters dated 21 July 2004 with English translations; two documents titled "Affidavit" signed by Eerik Entsik; and a copy of a "Successor Register" of Jaan Simisker with an English translation.

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(s) cannot be located or refuse to cooperate; (3) a statement of the last known address(es) of the non-signing joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the non-signing joint inventor(s).

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, Allan Nurk, is listed as:

Ringtee 3-19
50105 Tartu
Estonia, EE

The last known address of Aida Simisker, the legal representative of deceased joint inventor Jaan Simisker is listed as:

Kaunase pst 16-25
50704 Tartu
Estonia, EE

Hence, items (1) and (3) of 37 CFR 1.47(a) are complete.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that Allan Nurk and Aida Simisker "cannot be reached or found, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the Oath and Power of Attorney, along with the complete specification." Petitioner included two affidavits by Eerik Entsik along with copies of letters mailed to the addresses of Mr. Nurk and Ms. Simisker with their accompanying English translations. A copy of the "Successor Register" of Jaan Simisker who died 17 March 2002 was also provided along with an English translation.

A review of the evidence submitted shows that it does not meet the requirements of item (2) of 37 CFR 1.47(a).

There is no indication that either Mr. Nurk or Ms. Simisker received the documents mailed 21 June 2004. Petitioner did not provide evidence of receipt such as a certified mailing would provide. There is also no proof that Mr. Entsik attempted to contact Mr. Nurk or Ms. Simisker using the telephone to determine if they still live at the addresses where the documents were sent.

In addition, the petition asserts that "Eerik Entsik, attests to having presented" Allan Nurk and Aida Simisker, the "patent application, including the specification and claims." But a review of the declaration of Mr. Entsik and letters mailed 21 July 2004 does not support this claim. Mr. Entsik states in both his affidavits only that a "Declaration and Power of Attorney" was mailed. A review of the English translation of the letters mailed 21 July 2004 also does not indicate that a copy of the application was provided to Mr. Nurk and Ms. Simisker.

Applicants' burden in showing that an inventor refuses to cooperate, or cannot be located is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

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 . . .
>
> 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 . . .
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the three joint inventors on behalf of both nonsigning joint inventors. However, this declaration does not comply with 37 CFR 1.497(a) and (b).

Specifically, the information provided for the deceased joint inventor and the legal representative of the deceased joint inventor is deficient. There is no residence, citizenship and mailing information recorded on the declaration for the deceased joint inventor and his legal representative as required by 37 CFR 1.497(a) and (b).

For the reasons noted above, item (2) and (4) of 37 CFR 1.47(a) are 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

22 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of :
KOLBAKOV, Vambola et al :
U.S. Application No.: 10/472,445 :
PCT No.: PCT/EE01/00007 :
Int. Filing Date: 13 September 2001 :
Priority Date: 23 March 2001 : **DECISION**
Attorney Docket No.: 2329-0105P :
For: METHOD OF PRODUCTION OF :
BIOGRADABLE LACTIC ACID :
POLYMERS . . . :

This decision is in response to applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)" filed on 26 October 2004.

BACKGROUND

On 26 August 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy items (2) and (4) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 26 October 2004, applicants filed the renewed petition which was accompanied by, *inter alia*, a declaration signed by one of the three joint inventors; two declarations of Margus Sarap; an "Affidavit" of Juri Kaosaar; and copies of documentary evidence in the form of letters with accompanying English translations and postal receipts.

DISCUSSION

Petitioners failed to satisfy items (2) and (4) of 37 CFR 1.47(a) in the initial petition filed 13 August 2004.

Regarding item (2) of 37 CFR 1.47(a) for Mr. Allan Nurk, petitioner has submitted a declaration by Margus Sarap who claims that a complete copy of the application was mailed on 14 September 2004. A copy of the letter dated 14 September 2003, English translation and postal receipts were submitted.

A review of this documentary evidence shows that a complete copy of the application was sent to Mr. Nurk and delivered on 15 September 2004. Petitioner also included a declaration by Juri Kaosaar who states that talked to Mr. Nurk on the

telephone on 16 September 2004 who confirmed receipt of the documents. Mr. Kaosaar claims that Mr. Nurk made an oral refusal to cooperate. Petitioner attempted to obtain Mr. Nurk's signature several more times to no avail. This evidence is sufficient to show a refusal by Mr. Nurk and meets the requirements of item (2) of 37 CFR 1.47(a).

Concerning the legal representative of deceased inventor Jaan Simisker, petitioner provided another declaration by Mr. Sarap who states that a complete copy of the specification and request for signature of the declaration was presented to Mrs. Simisker on 15 September 2004. Petitioners resubmitted several times and no response was received. Mr. Sarap also declares that the last known address of Mrs. Simisker was checked as correct in the Population Registry. Petitioners provided sufficient documentary evidence to corroborate their claims.

Mr. Sarap also claims that he has been unable to contact Mrs. Simisker through the telephone and presented evidence that a search of her telephone number was attempted. This evidence and lack of response from Mrs. Simisker is sufficient to show a refusal and meets item (2) of 37 CFR 1.47(a).

Thus, item (2) of 37 CFR 1.47(a) is satisfied.

However, regarding item (4), the 37 CFR 1.47(a) applicant submitted a newly executed declaration signed by one of the three joint inventors on behalf of both nonsigning joint inventors. The residence, citizenship and mailing information for Mr. Nurk and Aida Simisker, the legal representative of the deceased joint inventor are recorded as required by 37 CFR 1.497(b)(2).

However, it was noted in the prior decision that:

> the information provided for the **deceased joint inventor** and the legal representative of the deceased joint inventor is deficient. There is no residence, citizenship and mailing information recorded on the declaration for the **deceased joint inventor** and his legal representative as required by 37 CFR 1.497(a) and (b). (Emphasis added).

In the renewed petition, the declaration still does not contain any information for the deceased inventor as required by 37 CFR 1.497(a)(3). As such, the declaration item (4) of 37 CFR 1.47(a) is still not satisfied.

CONCLUSION

For the reason discussed above, applicants' renewed petition under 37 CFR

1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. 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

#9

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01 FEB 2006

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of :
KOLBAKOV, Vambola et al :
U.S. Application No.: 10/472,445 :
PCT No.: PCT/EE01/00007 :
Int. Filing Date: 13 September 2001 :
Priority Date: 23 March 2001 : **DECISION**
Attorney Docket No.: 2329-0105P :
For: METHOD OF PRODUCTION OF :
BIOGRADABLE LACTIC ACID :
POLYMERS . . . :

This decision is in response to applicants' "Second Renewed Petition Under 37 C.F.R. §1.47(a)" filed on 17 November 2005.

BACKGROUND

On 2005, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (4) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 26 October 2004, applicants filed the renewed petition which was accompanied by, *inter alia*, a declaration signed by one of the three joint inventors.

DISCUSSION

In the renewed petition, the 37 CFR 1.47(a) applicant submitted a newly executed declaration signed by one of the three joint inventors on behalf of both nonsigning joint inventors. The residence, citizenship and mailing information for all the inventors and the legal representative of the deceased joint inventor are recorded on the declaration as required by 37 CFR 1.497(b)(2).

This declaration satisfies item (4) of 37 CFR 1.47(a). All other requirements of 37 CFR 1.47(a) were previously completed.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

10/472,445

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 13 September 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 November 2005.

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Alexandria, VA 22313-1450
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01 FEB 2006

Aida Simisker
Kaunase pst 16-25
50704 Tartu
Estonia, EE

In re Application of
KOLBAKOV, Vambola *et al*
U.S. Application No.: 10/472,445
PCT No.: PCT/EE01/00007
Int. Filing Date: 13 September 2001
Priority Date: 23 March 2001
Attorney Docket No.: 2329-0105P
For: METHOD OF PRODUCTION OF BIOGRADABLE LACTIC ACID POLYMERS . . .

Dear Ms. Simisker:

You are named as legal representative of a deceased 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, Jaan Simisker will be designated as an inventor.

As a legal representative of a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. 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.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

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01 FEB 2006

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Allan Nurk
Ringtee 3-19, 50105 Tartu
Estonia, EE

In re Application of
KOLBAKOV, Vambola et al
U.S. Application No.: 10/472,445
PCT No.: PCT/EE01/00007
Int. Filing Date: 13 September 2001
Priority Date: 23 March 2001
Attorney Docket No.: 2329-0105P
For: METHOD OF PRODUCTION OF BIOGRADABLE LACTIC ACID POLYMERS AND THE USE OF LACTIC ACID POLYMERS PRODUCED USING SUCH A METHOD

Dear Mr. Nurk:

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.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/472,468	09/22/2003	Mitsuo Kuwabara	0303-0477P	5954

2292 7590 03/30/2009
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
ROE, JESSEE RANDALL	

ART UNIT	PAPER NUMBER
1793	

NOTIFICATION DATE	DELIVERY MODE
03/30/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

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Commissioner for Patents
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Alexandria, VA 22313-1450
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3/30/09

wk

In re application of :
Kuwabara : DECISION ON
Serial No. 10/472,468 : PETITION
Filed: September 22, 2003 :
For: Steel Material :

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on March 6, 2009 to withdraw the rejections of record. A review of the record indicates that a final rejection was mailed on August 22, 2008 and that a Notice of Appeal was filed on January 22, 2009.

Applicants requests that a there be a full and complete examination of the Applicant's filing, dated December 5, 2008, that the advisory action dated December 22, 2008 does not constitute a full and complete response. Applicant further requests that supplementary remarks included in the attached supplemental reply be reviewed and that a face to face interview be authorized involving the USPTO Examiner and the internal translator.

A review of the record indicates that over the course of prosecution and requests for continued examination there have been seven office actions, three advisory actions and one interview. While applicant may disagree with the Examiner's Advisory Action of December 22, 2008, it does not necessarily mean that no clear issue has been developed.

Interviews are only with the Examiner and Applicants' representatives. (37 CFR 1.133(a), M.P.E.P. 713, M.P.E.P 1701.01).

DECISION

The petition is **DISMISSED.**

There is no provision to have an interview with an internal translator.

The Advisory Action dated December 22, 2008 remains of record.

Applicant's supplemental remarks that included an attached supplemental reply will be considered a reply under 37 C.F.R 1.116 and forwarded to the examiner for consideration.

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

James M. Slattery
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

04 MAR 2004

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Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, NW
Washington, DC 20005-3934

In re Application of	:	
Saenko et al.	:	
Application No. 10/472,516	:	DECISION ON
PCT No.: PCT/US02/00583	:	
Int. Filing Date: 11 January 2002	:	PETITION UNDER
Priority Date: 12 January 2001	:	
Atty. Docket No.: 1327.0660001/JAG/JSO	:	37 CFR 1.137(b)
For: Methods And Compositions For	:	
Reducing Heparan Sulfate	:	
Proteoglycan- Mediated Clearance	:	
Of Factor VIII	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 24 September 2003.

BACKGROUND

This international application was filed on 11 January 2002, claimed an earliest priority date of 12 January 2001, 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 14 July 2003 (since 12 July 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 an executed oath or declaration of the inventors.

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

JAN 13 2005

Pet. Dec. JFW

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

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

Application Number	10/472,530
Filing Date	10/24/2003
First Named Inventor	DITTMAR, Harri
Art Unit	
Examiner Name	
Attorney Docket Number	016915-0271

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700
6/17/05

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

- ☐ all the attorneys/agents of record.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 22,428

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

The reasons for this request are: Conflict

CORRESPONDENCE ADDRESS

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

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Brooks Kushman P.C. c/o William G. Conger				
Address	1000 Town Center, 22nd Floor				
City	Southfield	State	MI	Zip	48075-1238
Country	United States				
Telephone	248.226.2771	Fax			
Signature	Richard L. Schwaab				
Name	Richard L. Schwaab	Registration No.	25,479		
Date	January 13, 2005	Telephone No.	202.672.5300		

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

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

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

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INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

COPY MAILED

FEB 28 2007

OFFICE OF PETITIONS

Applicant: Rosen et a.
Appl. No.: 10/472,533
Filing Date: June 17, 2004
Title: HAMGR28 POLYPEPTIDES
Attorney Docket No.: PS906
Pub. No.: US 2005/0197285 A1
Pub. Date: September 8, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 8, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the benefit/priority claim to a substantial number of applications which were included on the application data sheet ADS, which was filed with the application was not included on the front page of the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . 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 mistake is not a material error under 37 CFR 1.221(b) because the benefit claim is improper. The benefit claim provided by Applicant on the ADS, which states PCT/US02/08276 is a CIP of application 10/100,683, which were both filed on March 19, 2002 is improper because both applications have the same filing date. Both 35 U.S.C. 120 and 37 CFR 1.78 require that a

[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).

benefit claim be to a prior application and an application, which was filed on the same day is not a prior application.

To make a benefit/priority claim, 37 CFR 1.78 in summary requires that the benefit claim to an earlier filed application be contained in the first sentence of the application or be submitted in an amendment or application data sheet within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. According to 37 CFR 1.55, the priority claim must identify the foreign application and filing date, within the required time frame within the later of four months from the actual filing date or the date on which the national stage commenced, or sixteen months from the filing date of the prior-filed application. [3] Since a proper benefit claim to an earlier filed application was not made within the required time period, it was not properly published on the patent application publication.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1370) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

[3] See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

09 JUN 2004

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Richard San Pietro
Foley & Lardner
PO Box 80278
San Diego, California 92138-0278

In re Application of :
FORSBERG et al. :
U.S. Application No. 10/472,542 : DECISION ON PETITION
PCT No.: PCT/US02/08933 :
Int. Filing Date: 22 March 2002 :
Priority Date: 22 March 2001 :
Attorney Docket No.: 028040-5904 :
For: SEX-SPECIFIC SELECTION OF SPERM : FROM TRANSGENIC ANIMALS

This decision is in response to "Petition under 37 CFR 1.47(a)" filed 07 June 2004 to accept the application without the signature of joint-inventor, Michael D. Bishop.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/US02/08933 which claimed a priority date of 22 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.

On 17 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 an information disclosure statement.

On 11 March 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 07 June 2004, applicants filed 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, (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 Michael D. Bishop 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 Michael D. Bishop. Petitioner states, "[a]pplicant sent a communication to Inventor (Exhibit A), the nonsigning inventor, on March 24, 2004, via United States Postal Service Certified Mail . . . The United States Postal Service attempted deliver on three occasions -- March 27, 2004, April 3, 2004, and April 13, 2004. On each occasion the package was unclaimed, and then returned to sender. (Exhibit B)." However, no documentary evidence to support the refusal or the attempt was provided with the petition. It is noted that Exhibit B was not included with the petition papers.

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 Michael D. Bishop, 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 07 June 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 4 of 4. 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 07 June 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 Michael D. Bishop 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.

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09 DEC 2004

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Foley & Lardner
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San Diego, California 92138-0278

In re Application of :
FORSBERG et al. :
U.S. Application No. 10/472,542 : DECISION ON PETITION
PCT No.: PCT/US02/08933 :
Int. Filing Date: 22 March 2002 :
Priority Date: 22 March 2001 :
Attorney Docket No.: 028040-5904 :
For: SEX-SPECIFIC SELECTION OF SPERM FROM TRANSGENIC ANIMALS :

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 23 November 2004 to accept the application without the signature of joint-inventor, Michael D. Bishop.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/US02/08933 which claimed a priority date of 22 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.

On 17 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 an information disclosure statement.

On 11 March 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 07 June 2004, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 29 June 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 26 August 2004, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 23 September 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 23 November 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.

A review of the present petition and the accompanying papers reveal that applicant has 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 Michael D. Bishop. The steps taken by Kathryn E. Cox are sufficient to show that the missing inventor refuses to execute the application. 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**.

The application will be given an international filing date of 22 March 2002 under 35 U.S.C. 363, and a date of **07 June 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.

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23 SEP 2004

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In re Application of :
FORSBERG et al. :
U.S. Application No. 10/472,542 : DECISION ON PETITION
PCT No.: PCT/US02/08933 :
Int. Filing Date: 22 March 2002 :
Priority Date: 22 March 2001 :
Attorney Docket No.: 028040-5904 :
For: SEX-SPECIFIC SELECTION OF SPERM :
FROM TRANSGENIC ANIMALS

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 26 August 2004 to accept the application without the signature of joint-inventor, Michael D. Bishop.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/US02/08933 which claimed a priority date of 22 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.

On 17 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 an information disclosure statement.

On 11 March 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 07 June 2004, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 29 June 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 26 August 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.

Regarding item (2) above, petitioner states that Michael D. Bishop 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 Michael D. Bishop. The Declaration of Line Gauthier states that "she sent the complete application to Michael D. Bishop on March 24, 2004 and that the United States Postal Service attempted delivery on three occasions -- March 27, 2004, April 3, 2004, and April 13, 2004. On each occasion the package was unclaimed, and then returned to sender."

However, petitioner fails to include evidence to demonstrate that the materials were received by the nonsigning inventor. Moreover, it appears that no further attempts were made to deliver the application papers so as to show that Mr. Bishop actually refused to accept the delivery of the papers. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant.

In addition, it is unclear if Mr. Bishop still resides in that address. If not, then petitioner is under an obligation to try to find or reach Mr. Bishop. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under 37 CFR 1.47. Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor, item (2) cannot be considered satisfied.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Michael D. Bishop 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.

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MORRISON & FOERSTER LLP
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SUITE 400
MCLEAN, VA 22102

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of :
Hardy Hofer :
Application No. 10/472,551 : DECISION ON PETITION
Filed: March 22, 2004 : TO WITHDRAW
Attorney Docket No. 449122064600 : 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 **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 August 20, 2007.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of :
Lars Werner :
Application No. 10/472,552 : DECISION ON PETITION
Filed: September 23, 2003 : TO WITHDRAW
Attorney Docket No. 449122064500 : 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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 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 Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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JAN 14 2008

OFFICE OF PETITIONS

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re Application of :
Jurgen Laubersheimer :
Application No. 10/472,561 : DECISION ON PETITION
Filed: September 23, 2003 : TO WITHDRAW
Attorney Docket No. 25690 : 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 10, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

Further 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 July 24, 2007.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DLA PIPER US, LLP
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Nath & Associates
112 South West Street
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Goran Burger et al. :
Application No. 10/472,562 : DECISION ON PETITION
Filed: September 23, 2003 : TO WITHDRAW
Attorney Docket No. 25692 : 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 10, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **DLA Piper US LLP**
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Philadelphia, PA 19103-7300

20 APR 2004

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Gary M. Nath
Nath & Associates PLLC
Sixth Floor
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Washington, D.C. 20005

In re Application of :
DECKMANN :
Application No.: 10/472,582 :
PCT No.: PCT/IL02/00233 :
Int. Filing Date: 21 March 2002 :
Priority Date: 21 March 2001 :
Attorney Docket No.: 25693 :
For: NOVEL PEPTIDES FOR THE DIAGNOSIS OF SCHIZOPHRENIA

DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to applicant's declaration filed 19 February 2004, which is being treated as a request under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 21 March 2002, applicant filed international application PCT/IL02/00233, which claimed a priority date of 21 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, 22 September 2003. (21 September 2003 was a Sunday.)

On 22 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 26 January 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 19 February 2004, applicant filed the surcharge under 37 CFR 1.492(e) and a declaration and power of attorney executed by Jonathon Leitersderf on behalf of deceased inventor, Michael Deckmann.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 19 February 2004 was executed by Jonathon Leitersderf as "personal representative" of deceased inventor, Michael Deckmann. However, the declaration does not state that Jonathon Leitersderf is the "legal" representatives or are all of the heirs of the deceased inventor. Accordingly, the declaration fails to identify the proper relationship under 37 CFR 1.497(b)(2).

Additionally, applicant is notified that the declaration submitted on 19 February 2004 lists the title of invention as "Analgesic From Snake Venom" whereas the published international application lists the title of invention as "Novel Peptides for the Diagnosis of Schizophrenia."

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

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

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14 SEP 2004

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Gary M. Nath
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Washington, D.C. 20005

In re Application of	:	
DECKMANN	:	DECISION ON
Application No.: 10/472,582	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/IL02/00233	:	
Int. Filing Date: 21 March 2002	:	
Priority Date: 21 March 2001	:	
Attorney Docket No.: 25693	:	
For: NOVEL PEPTIDES FOR THE DIAGNOSIS OF SCHIZOPHRENIA		

This decision is in response to applicant's facsimile communication filed 26 August 2004, which is being treated as a petition under 37 CFR 1.181 and renewed request under 37 CFR 1.42.

BACKGROUND

On 21 March 2002, applicant filed international application PCT/IL02/00233, which claimed a priority date of 21 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, 22 September 2003. (21 September 2003 was a Sunday.)

On 22 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 26 January 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 19 February 2004, applicant filed the surcharge under 37 CFR 1.492(e) and a declaration and power of attorney executed by Jonathon Leitersderf on behalf of deceased inventor, Michael Deckmann. In a decision dated 20 April 2004, applicant's request was dismissed because the declaration was defective under 37 CFR 1.497(b).

On 26 August 2004, applicant filed the present petitions under 37 CFR 1.181 and 37 CFR 1.42.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that the renewed request under 37 CFR 1.42 was received by the USPTO on 21 June 2004. A review of the application file reveals that the renewed request under 37 CFR 1.42 filed 21 June 2004 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; application number; and the docket number. The evidence submitted by applicant, consisting of a postcard receipt with a OIPE mailroom date stamp of 21 June 2004 which itemizes all the papers filed on said date including the Renewed Submission under 37 CFR 1.42. The postcard receipt bearing the serial number, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 21 June 2004.

B. Petition under 37 CFR 1.42

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed on 21 June 2004 is executed by Jonathon Leitersderf as the "legal representatives" of the deceased inventor, Michael Deckmann. 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(b)(2).

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 21 June 2004 does not include the residence, citizenship, and post office address for the legal representative. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).
2004 reveals that the declaration is defective.

It is noted that the signature page of the declaration is illegible due to the facsimile transmission.

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

04 NOV 2004

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ALEXANDRIA, VA 22313-1450
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Gary M. Nath
Nath & Associates PLLC
Sixth Floor
1030 15th Street
Washington, D.C. 20005

In re Application of :
DECKMANN :
Application No.: 10/472,582 :
PCT No.: PCT/IL02/00233 :
Int. Filing Date: 21 March 2002 :
Priority Date: 21 March 2001 :
Attorney Docket No.: 25693 :
For: NOVEL PEPTIDES FOR THE DIAGNOSIS OF SCHIZOPHRENIA

DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to applicant's "Renewed Submission of Executed Declaration under 37 CFR 1.42" filed 07 October 2004.

BACKGROUND

On 21 March 2002, applicant filed international application PCT/IL02/00233, which claimed a priority date of 21 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, 22 September 2003. (21 September 2003 was a Sunday.)

On 22 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 26 January 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 19 February 2004, applicant filed the surcharge under 37 CFR 1.492(e) and a declaration and power of attorney executed by Jonathon Leitersderf on behalf of deceased inventor, Michael Deckmann. In a decision dated 20 April 2004, applicant's request was dismissed because the declaration was defective under 37 CFR 1.497(b).

On 26 August 2004, applicant filed a petitions under 37 CFR 1.181 and 37 CFR 1.42. In a decision dated 14 September 2004, applicant's request under 37 CFR 1.42 was dismissed because the declaration was defective under 37 CFR 1.497(b).

On 07 October 2004, applicant filed the present renewed petition 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 07 October 2004 is executed by Jonathon Leitersderf as the "legal representatives" of the deceased inventor, Michael Deckmann. 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 21 March 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **07 October 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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

OIPE JC177 OCT 07 2004 PATENT & TRADEMARK OFFICE

DT02 Rec'd PCT/PTO 07 OCT 2004 PCT #6

MAIL STOP PCT
Attorney Docket No. 25693

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
DECKMANN
Serial No. 10/472,582
Filed: September 22, 2003
For: **NOVEL PEPTIDES FOR THE DIAGNOSIS OF SCHIZOPHRENIA**

TRANSMITTAL LETTER

ATTN: Office of PCT Legal Administration
Commissioner for Patents
Office of PCT Legal Administration,
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith for filing in the U.S. Patent and Trademark Office is the following:

(1) Transmittal Letter;
(2) Copy of Decision on Papers Under 37 CFR 1.42 dated September 14, 2004;
(3) Renewed Submission of Executed Declaration Under 37 CFR 1.42 signed by Legal Representative.

The Commissioner is hereby authorized to charge any deficiency or credit any excess to Deposit Account No. 14-0112.

Respectfully submitted,
NATH & ASSOCIATES PLLC

By: Lee C. Heiman

Gary M. Nath
Registration No. 26,965
Lee C. Heiman
Registration No. 41,827
Customer No. 20529

Date: October 7, 2004
NATH & ASSOCIATES PLLC
1030 15th Street N.W., 6th Floor
Washington, D.C. 20005-1503
(202) 775-8383
GMN/LCH/le: (TL)

14 SEP 2004
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OIPE JC177
OCT 07 2004
PATENT & TRADEMARK OFFICE

Gary M. Nath
Nath & Associates PLLC
Sixth Floor
1030 15th Street
Washington, D.C. 20005

In re Application of :
DECKMANN :
Application No.: 10/472,582 :
PCT No.: PCT/IL02/00233 :
Int. Filing Date: 21 March 2002 :
Priority Date: 21 March 2001 :
Attorney Docket No.: 25693 :
For: NOVEL PEPTIDES FOR THE DIAGNOSIS OF SCHIZOPHRENIA

DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to applicant's facsimile communication filed 26 August 2004, which is being treated as a petition under 37 CFR 1.181 and renewed request under 37 CFR 1.42.

BACKGROUND

On 21 March 2002, applicant filed international application PCT/IL02/00233, which claimed a priority date of 21 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, 22 September 2003. (21 September 2003 was a Sunday.)

On 22 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 26 January 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 19 February 2004, applicant filed the surcharge under 37 CFR 1.492(e) and a declaration and power of attorney executed by Jonathon Leitersderf on behalf of deceased inventor, Michael Deckmann. In a decision dated 20 April 2004, applicant's request was dismissed because the declaration was defective under 37 CFR 1.497(b).

On 26 August 2004, applicant filed the present petitions under 37 CFR 1.181 and 37 CFR 1.42.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that the renewed request under 37 CFR 1.42 was received by the USPTO on 21 June 2004. A review of the application file reveals that the renewed request under 37 CFR 1.42 filed 21 June 2004 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; application number; and the docket number. The evidence submitted by applicant, consisting of a postcard receipt with a OIPE mailroom date stamp of 21 June 2004 which itemizes all the papers filed on said date including the Renewed Submission under 37 CFR 1.42. The postcard receipt bearing the serial number, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 21 June 2004.

B. Petition under 37 CFR 1.42

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed on 21 June 2004 is executed by Jonathon Leitersderf as the "legal representatives" of the deceased inventor, Michael Deckmann. 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(b)(2).

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 21 June 2004 does not include the residence, citizenship, and post office address for the legal representative. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).
2004 reveals that the declaration is defective.

It is noted that the signature page of the declaration is illegible due to the facsimile transmission.

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

OIPE JC17
OCT 07 2004
PATENT & TRADEMARK OFFICE

MAIL STOP PCT
Attorney Docket No. 25693

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
DECKMANN
Serial No. 10/472,582
Filed: September 22, 2003
For: **NOVEL PEPTIDES FOR THE DIAGNOSIS OF SCHIZOPHRENIA**

SUBMISSION OF MISSING PARTS

ATTN: Office of PCT Legal Administration
Commissioner for Patents
Office of PCT Legal Administration,
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Papers Under 37 CFR 1.42 dated September 14, 2004, submitted herewith are the following:

(1) Renewed Submission of Executed Declaration Under 37 CFR 1.42 signed by Legal Representative.

Respectfully submitted,

NATH & ASSOCIATES PLLC

By: _____
Gary M. Nath
Registration No. 26,965
Lee C. Heiman
Registration No. 41,827
Customer No. 20529

Date: October 7, 2004
NATH & ASSOCIATES PLLC
1030 15th Street N.W., 6th Floor
Washington, D.C. 20005-1503
(202) 775-8383
GMN/LCH/le: (Submission)

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TECHNOLOGY CENTER 2600

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

In re Application of
Hiroshige OKAMOTO, et al.
Application No. 10/472,585
Filed: September 22, 2003
For: **DATA TRANSMITTING METHOD, DATA RECEIVING METHOD, DATA TRANSMITTING DEVICE, AND DATA RECEIVING DEVICE**

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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Frost Brown Todd
2200 PNC Center
201 East Fifth Street
Cincinnati OH 45202

MAILED

FEB 16 2010

OFFICE OF PETITIONS

In re Application of:
Coffee et al.
Application No. 10/472,588
Filed: February 12, 2004
Attorney Docket No. 4897.0518845

ON PETITION

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

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

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

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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: C. Michael Gegenheimer
505 King Avenue
Columbus, OH 43201

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 1-3-06

MEB
Paper Number:

In re application of :
Roosen et al. : DECISION ON
Serial No. 10/472,628 : PETITION
Filed: January 27, 2004 :
For: Method For Joining Ceramic Green Bodies Using A Transfer Tape and Conversion Of Bonded Green Body Into A Ceramic Body

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed October 12, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 5, 2005, for failure to timely reply to the Office Action of April 1, 2005 be withdrawn. The petitioner asserts that the response was timely filed on October 3, 2005. A copy of the response and the stamped postcard receipt is provided as evidence.

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

As set forth in MPEP 711.03(c) Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed:
37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date. Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply

was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt. Where a certificate of mailing or transmission 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).

The petitioner's showing, of the postcard receipt, that the response was submitted by mail on October 3, 2005 is sufficient. The application will be forwarded to the examiner for processing and consideration of the papers filed October 12, 2005 (postcard receipt date of October 3, 2005) and a copy of which is provided as an attachment to the instant petition.

The Petition is **Granted**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kurt G. Briscoe
Norris, McLaughlin & Marcus, P.A.
875 Third Avenue-18th Floor
New York, New York 10022

12 MAR 2004

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ALEXANDRIA, VA 22313-1450
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Curtis Hamre
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of	
ISHIGAMI, Osumu et al.	
Application No.:10/472,635	
PCT Application No.: PCT/JP01/10894	DECISION ON
International Filing Date: 12 December 2001	
Priority Date: 20 December 2000	PETITION
Attorney Docket No.: 8373.317USWO	
For: COMPOSITE PLATING FILM AND A PROCESS FOR FORMING SAME	UNDER 37 CFR 1.137(b)

Applicant's "Petition Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 18 September 2003 is **GRANTED**.

BACKGROUND

On 12 December 2001, applicant filed international application number PCT/JP01/10894. This application claims priority of multiple Japanese applications; the earliest priority date is 20 December 2000. The application is in the English language. A copy of the international application was transmitted by the International Bureau on 27 June 2002. The deadline for paying the basic national fee for the United States National Stage was thirty months from the priority date, that is 20 June 2003.

On 18 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, an unsigned declaration of the inventors, and checks totaling $2,290, which is greater than the sum of the basic national fee for this application and the petition fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a 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.

The petition states, "the entire delay in filing the National Stage Application on or before June 20, 2003, until the filing of a grantable petition pursuant to 37 CFR 1.137(b) 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.

All of the other requirements for a grantable petition under 37 CFR 1.137(b) have also been satisfied. 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.

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 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 a *signed* oath or declaration of the inventors and the surcharge for late filing of the oath or declaration are due.

Boris Milef
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
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FROM DIRECTORS OFFICE

MAY 05 2006

TECHNOLOGY CENTER 3600

Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of : DECISION ON PETITION
Natividade et al. : TO REVIEW RESTRICTION
Application No. 10/472,646 : REQUIREMENT
Filed: February 17, 2004 : UNDER 37 CFR 1.144
For: ANIMAL DATA GATHERING :
METHOD AND DEVICE

This is in response to applicants' Petition for Supervisory Review received January 12, 2006 requesting a review of the requirement for restriction made January 11, 2005, and which will be treated as a Petition to the Commissioner under 37 CFR 1.144. The petition seeks clarification of whether or not the restriction requirement is proper and requests that the examiner be reversed on the restriction requirement and direct the examiner to examine claims 1-23.

The petition is **GRANTED.**

A review of the record indicates that the examiner required a restriction under 35 U.S.C. 121 between (I) an animal data gathering device (claims 1-11 and 21), (II) an ear tag (claim 12), (III) an implant (claim 13), (IV) a bolus (claim 14), (V) a method of gathering animal data (claims 15-19 and 22) and (VI) a reader (claims 20 and 23). Applicants traversed the restriction, pointing out the supposed errors, and electing the invention of group I, claims 1-11 and 21. In the next Office action, mailed July 15, 2005, the restriction requirement was made final.

Upon further review of the record it is noted that this application is a national stage application submitted under 35 U.S.C. 371. Unity of invention practice is applicable in national stage applications submitted under 35 U.S.C. 371. Accordingly, the restriction requirement under 35 U.S.C. 121 is improper.

In view of the findings noted above, the restriction requirement is vacated. However, since the application contains method claims in addition to apparatus claims, the application will be returned to the examiner of record for consideration of a holding of a lack of unity of invention. If there is a lack of unity of invention, restriction will be required under 35 U.S.C. 121 and 372.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

DH/tl: 03/10/06

#6

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ALEXANDRIA, VA 22313-1450
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Laurence A. Greenberg
Lerner and Greenberg, P.A.
P.O. Box 2480
Hollywood, Florida 33020-2480

In re Application of :
HOFFMANN, Klaus :
Application No.: 10/472,671 :
PCT Application No.: PCT/EP02/01454 : DECISION ON
International Filing Date: 12 February 2002 :
Priority Date: 12 February 2001 : PETITION
Attorney Docket No.: RWS-8344 :
For: BINOCULAR OPTICAL APPARATUS, IN PARTICULAR ELECTRONIC EYEGLASSES, HAVING AN ELECTRONIC CAMERA FOR AUTOMATIC FOCUSING INCLUDING CORRECTION FOR VARIOUS VISUAL IMPAIRMENTS : 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 United States Patent and Trademark Office on 23 September 2003 is **GRANTED**.

BACKGROUND

On 12 February 2002, applicant filed international application number PCT/EP02/01454, which claimed priority of a German application filed on 12 February 2001. A copy of the international application was transmitted by the International Bureau on 22 August 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 12 August 2003.

On 23 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 "[t]he entire delay in filing the required reply from the due date until the filing of the petition was unintentional. 37 C.F.R. 1.137(b)(3)," 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 has an international filing date of 12 February 2002 under 35 U.S.C. §363 and a date of 23 September 2003 under 35 U.S.C. §371(c)(1), (c)(2), and (c)(4). 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) 308-6450

Leonard E. Smith
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (703) 308-6461
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INTELLECTUAL PROPERTY R338
P.O. BOX 8097
EMERYVILLE CA 94662-8097

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION TO
Masignani et al.	:	WITHDRAW HOLDING OF
Application Number: 10/472681	:	ABANDONMENT
Filing Date: 09/02/2004	:	
Attorney Docket Number: 2300-17949(17949.003)	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(b)," filed on October 19, 2007.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on October 2, 2007, stating that the application was abandoned for failure to file a reply to the non-final Office action mailed on March 28, 2007.

Petitioner asserts that a timely reply to the non-final Office action was filed on September 28, 2007.

A review of the record reveals that an amendment and a three (3) month extension of time, and the fee therefor, was filed on September 28, 2007, in response to the Office action mailed on March 28, 2007. As such, the showing of record is that a timely response to the Office action mailed on March 28, was filed.

As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. No fee is due.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being forwarded to

the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is referred to Technology Center Art Unit 1652 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

MORRISON & FOERSTER LLP
425 MARKET ST
SAN FRANCISCO CA 94105-2482

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Catherine U. Brown
Mail Stop CO1232 Dow Corning Corporation
2200 West Salzberg Road
P.O. Box 994
Midland, MI 48686-0994

In re Patent No. 7,033,561 :
Issue Date: April 25, 2006 :
Application No. 10/472,683 : ON PETITION
Filed: September 23, 2003 :
Attorney Docket No. HSC24NAT1 :

This is a decision on the petition filed September 23, 2009, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Hemlock Semiconductor Corporation, Hemlock, MI (US)." 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that an assignment from James Edward Kendig, David Russell Landis, Todd Michael McQuiston and Michael Matthew Zalar to Hemlock Semiconductor Corporation was recorded on September 18, 2009, after the date of issuance of this patent. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Telephone inquiries should be directed to Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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OFFICE OF PETITIONS

In re Patent No. 7,014,161 :
Issue Date: March 21, 2006 :
Application No. 10/472,692 :
Filed: September 24, 2003 :
Attorney Docket No. 31530-188782 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on September 22, 2009.

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

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

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is signed on the behalf of the assignee and fails to comply with the requirements of 37 CFR 3.73(b).

37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ALENA PEACH
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

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BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

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OFFICE OF PETITIONS

In re Patent No. 7,014,161 :
Issue Date: March 21, 2006 :
Application No. 10/472,692 : ON PETITION
Filed: September 24, 2003 :
Attorney Docket No. 31530-188782 :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed March 1, 2010.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Jurgen Schenk :
Application No. 10/472,694 : DECISION ON PETITION
Filed: September 24, 2003 :
Attorney Docket No. 32164-191802 :

This is a decision on the petition, filed December 21, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of May 30, 2006, which set a three (3) month shortened statutory period for reply. A reply was due on or before August 30, 2006.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 30, 2006. A copy of the previously submitted reply accompanies the petition.

The papers acknowledged as having been received in the USPTO on August 30, 2006 is not of record in the application file and has not to date been located. However, MPEP 503 states, that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the papers was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on August 30, 2006.

This application is being referred to Technology Center AU 367 for appropriate action in the normal course of business on the reply received with petition.

Irvin Dingle
Petition Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,427,260 :
Pang et al. : DECISION ON REQUEST
Issued: September 23, 2008 : FOR RECONSIDERATION OF
Application No. 10/472,708 : PATENT TERM ADJUSTMENT
Filed: September 23, 2003 :
Atty Docket No. 07039-301US1 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 24, 2008, requesting that the period of adjustment for Office delay be increased by 646 days to 1,056 days and that the patent term adjustment determination for the above-identified patent be corrected from 589 days to 999 days.

The request for reconsideration of patent term adjustment is DISMISSED. Patentees are given TWO (2) MONTHS from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

On September 23, 2008, the above-identified application matured into U.S. Patent No. 7,427,260. The instant request for reconsideration was timely filed on Monday, November 24, 2008. The patent issued with a revised patent term adjustment of 589 days.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[1] (AIPA) provides that:

[1] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

ADJUSTMENT OF PATENT TERM. —

(1) PATENT TERM GUARANTEES. —

(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —

(I) the date on which an application was filed under section 111(a) of this title; or

(II) the date on which an international application fulfilled the requirements of section 371 of this title;

(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b)

and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[2]:

In pertinent part, 37 CFR 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action

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[2] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) 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;

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application 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; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a

patent was issued, but not including the sum of the following periods[3]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this

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[3] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or 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, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

> section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

The Office agrees that the patent issued 3 years and 410 days after the date on which the national stage commenced under 35 U.S.C. 371(b), excluding the time consumed by continued examination of the application under 35 U.S.C. 132(b). See 37 CFR 1.702(b)(1). The Office agrees that it failed to take action within the specified time frame as set forth in 37 CFR 1.702(a)(1), and thus, the entry of the period of adjustment of 646 days is correct. At issue is whether patentees should accrue 410 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 646 days for Office failure to take certain actions within specified time frames (or examination delay) with no period of overlap as maintained by patentees.

The Office does not agree and contends that the 410 days overlap with the 646 days accorded during the pendency of the application. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides, in pertinent part:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. *See* 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). *See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). *See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). *See also Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has

consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718.[4]

As such, the period for over 3 year pendency does not, as argued by patentees, overlap only to the extent that the actual dates

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[4] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

in the period beginning three years after the date on which the national stage commenced under 35 U.S.C. 371(b) overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the commencement of the national stage under 35 U.S.C. 371(b). Patentees are incorrect in treating the relevant period as starting on the date that is 3 years after the commencement of the national stage under 35 U.S.C. 371(b).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 23, 2003 to September 23, 2008, excluding the period consumed by continued examination of the application requested by the applicants under 35 U.S.C. 132(b). See 35 U.S.C. 154(b)(1)(B)(i). The 646 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. The 410 days overlap with the 646 days.

In view thereof, the Office affirms that the determination of patent term adjustment at the time of the issuance of the patent is 589 days (646 days for Office delay reduced by 57 days of applicant delay).

CONCLUSION

The request for reconsideration of the revised patent term adjustment is dismissed.

The Office acknowledges receipt of the $200.00 fee set forth in § 1.18(e). No additional fee is necessary.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DEC 16 2008

OFFICE OF PETITIONS

In re Application of :
Millner : LETTER REGARDING PTA
Application No. 10/472,715 :
Filed: September 19, 2003 :
Atty. Dkt. No.: : 03-845 :

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed June 13, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed March 19, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 830 days. Applicants indicate that the correct adjustment is 789 days, and, further, indicate that the Office failed to reduce the adjustment 41 days in connection with the submission of an RCE on November 26, 2007.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 789 days, as indicated by applicant.

A final Office action was mailed July 16, 2007. An RCE was filed November 26, 2007. Thus, in accordance with 37 CFR 1.704(b), the adjustment is subject to a reduction of 41 days, as indicated by applicant. The reduction commenced October 17, 2007 and ended November 26, 2007.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 789 days (adjustment totalling 830 less reduction totalling 41 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter. Applicant is entitled to a refund of the $200 application fee submitted herewith. Applicant may request a refund of the $200 application fee by writing to the Finance Office, Refund Section. A copy of this letter should accompany any request for refund. Applicant is strongly advised

to wait until after the patent issues to request the refund to avoid further reduction in the patent term adjustment, as requests for refunds are deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the Alesia M. Brown at (571) 272-3205.

Kery A Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Tuesday
Date: 12/16/2008

PALM INTRANET

Time: 07:57:23

PTA Calculations for Application: 10/472715			
Application Filing Date:	09/19/2003	PTO Delay (PTO):	830
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	789
PTO Delay Adjustment:	-41		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		41	
39	03/19/2008	MAIL NOTICE OF ALLOWANCE			
38	03/17/2008	ISSUE REVISION COMPLETED			
37	03/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	03/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
35	03/17/2008	DOCUMENT VERIFICATION			
34	03/14/2008	EXAMINER'S AMENDMENT COMMUNICATION			
33	03/14/2008	NOTICE OF ALLOWABILITY			
30	11/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	11/26/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
28	01/02/2008	DATE FORWARDED TO EXAMINER			
27	11/26/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
26	01/02/2008	DATE FORWARDED TO EXAMINER			
25	11/26/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
24	01/02/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
23	11/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	11/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	11/26/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
20	10/11/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

19	10/04/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	07/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
17	07/11/2007	FINAL REJECTION			
16	05/24/2007	NEW OR ADDITIONAL DRAWING FILED			
15	05/31/2007	DATE FORWARDED TO EXAMINER			
14	05/24/2007	RESPONSE AFTER NON-FINAL ACTION			
13	02/27/2007	MAIL NON-FINAL REJECTION	830		-1
12	02/20/2007	NON-FINAL REJECTION			
11	07/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
10	11/10/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	11/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	09/19/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7	09/19/2003	PRELIMINARY AMENDMENT			
6	02/19/2004	CLEARED BY OIPE CSR			
5	09/22/2003	371 COMPLETION DATE			
4	02/13/2004	APPLICATION DISPATCHED FROM OIPE			
3	02/13/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	09/19/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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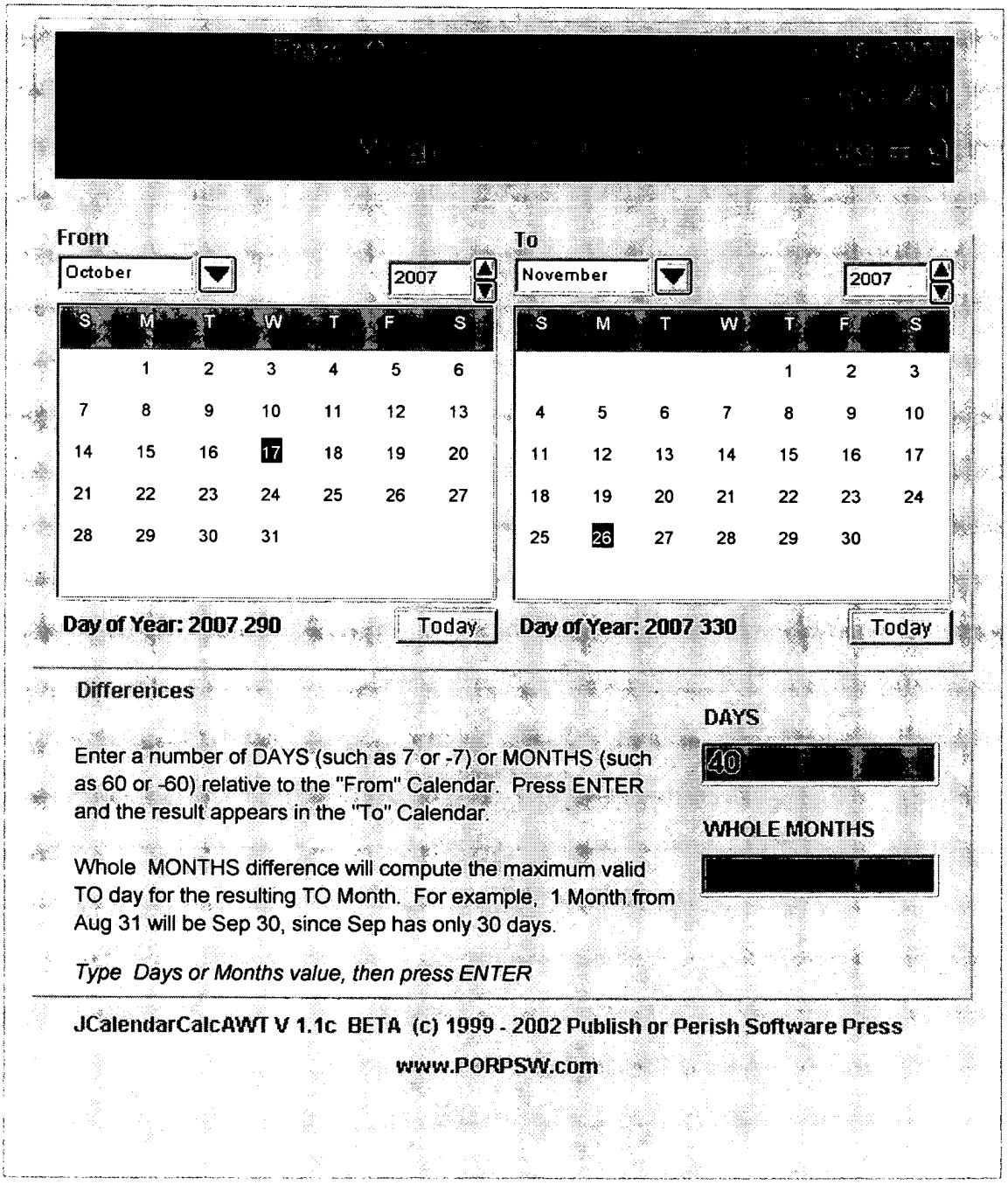

As time always moves forward, the Years, Months, Days breakdown is always computed from the lesser

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Cincinnati OH 45202

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OFFICE OF PETITIONS

In re Application of:	:	
Davies et al.	:	
Application No. 10/472,721	:	ON PETITION
Filed: February 6, 2004	:	
Attorney Docket No. 4897.0518846	:	

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

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: C. Michael Gegenheimer
505 King Avenue
Columbus, OH 43201

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OFFICE OF PETITIONS

In re Application of	:	
Arthur Dybevik et al	:	
Application No. 10/472,727	:	DECISION GRANTING PETITION
Filed: September 22, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 68.0800/1935-00125	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 6, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3676 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.*

05 AUG 2005

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ELI LILLY AND COMPANY
Patent Division
P.O. Box 6288
Indianapolis, IN 46206-6288

In re Application of:
CHEN et al.
U.S. Application No.: 10/472,741
PCT No.: PCT/US02/05115
International Filing Date: 15 March 2002
Priority Date: 29 March 2001
Attorney's Docket No.: X-12511
For: N-(2-ARYLETHYL) BENZYLAMINES AS ANTAGONISTS OF THE 5-HT6 RECEPTOR

DECISION

This decision is in response to applicants' communication filed 23 June 2005 requesting correction of certain documents contained in the Image File Wrapper (IFW) for U.S. application 10/472,741. The communication has been treated as a petition under 37 CFR 1.181. The petition is **GRANTED** as follows:

Petitioner asserts that the specification and claims identified as such in IFW are in fact the specification and claims of an art reference cited by petitioner in a contemporaneously filed Information Disclosure Statement, and that the actual specification and claims forming the instant application were improperly scanned in as "Various IB Documents and Papers Submitted with the 371 Application Such as the ISR and IPER."

Review of the Office records reveals that the documents referred to above were incorrectly coded. The error has been corrected.

The application is being forwarded to the Office of Patent Legal Administration to consider petitioner's "Request for Patent Application Republication" filed 27 June 2005 requesting republication of the instant application.

Boris Milef
PCT Legal Examiner
Office Of PCT Legal Administration
Telephone: (571) 272-3288
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

Applicant: Chen et al.
Appl. No.: 10/472,741
International Filing Date: Mach 15, 2002
Title: N-(2-ARYLETHYL) BENZYLAMINES AS ANTAGONISTS OF THE 5-HT6 RECEPTOR
Attorney Docket No.: X12511
Pub. No.: US 2004/0234482 A1
Pub. Date: July 8, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 27, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of a reference submitted with the application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on June 27, 2005, 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 O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,465,444 :
Mamoru Watanabe :
Issue Date: December 16, 2008 :
Application No. 10/472,743 : DECISION ON REQUEST FOR
Filed: March 24, 2004 : RECONSIDERATION OF
Attorney Docket No. 14539-010US1 : PATENT TERM ADJUSTMENT
Title: Methods Of Suppressing or Treating An Inflammatory Bowel Disease by Administering an Antibody or Portion Thereof That Binds To Ailim :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed January 8, 2009.

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

The above-identified application matured into U.S. Patent No. 7,465,444 on December 16, 2008. The patent issued with a patent term adjustment of 653 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment determination for the above-identified patent be changed from 653 days to 1322 days.

Patentee requests recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

The petition submitted by patentee sets forth a period of adjustment for Office delays totaling 1349 days (Three Year Delay under 37 CFR 1.703(b) of 811 days *plus* a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 538 days). The petition also sets forth an overlap of 27 days. The petition reflects a reduction of patent term adjustment totaling "0" days for applicant's failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. Thus, patentee asserts entitlement to an overall adjustment of 1322 days (1349(811+538)) days for Office delay *less* 27 days for overlap).

Patentee's petition does not dispute the adjustments under 37 CFR 1.702(a) totaling 538 days. Patentee's petition acknowledges the "0" reductions for applicant's failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. These reductions total 0 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704.

The Office agrees that as of the issuance of the patent on December 16, 2008, the application was pending three years and 811 days after the commencement date (September 27, 2003) pursuant to 37 CFR 1.371.The Office agrees that because certain actions were not taken within specified time frames, the patent is entitled to an adjustment of 538 days pursuant to 37 CFR 1.702(a). At issue is whether patentees should accrue an additional 811 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 538 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 538 of the 811 days overlap. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the

patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application or the national stage commenced under 35 U.S.C. 371(b) or (f), is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing or commencement date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See, Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application or the national stage commenced under 35 U.S.C. 371(b) or (f), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the

actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office

The application actually issued three years and 811 days after its commencement date. The Office did not delay 538 days and then delay an additional 811 days.

Accordingly, the proper adjustment of 811 days of patent term adjustment (not 538 days and 811 days) should have been entered because the period of delay of 538 of 811 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 538 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted. Thus, 811 days is determined to be the actual number of days that the issuance of the patent was delayed.

In view thereof, the patent term adjustment indicated in the patent should have been eight hundred eleven **(811)** days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

this decision. No extensions of time will be granted under § 1.136.

The application will be forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR§ 1.322. After the thirty day time period has elapsed, the Office will sua sponte issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred eleven **(811)** days.

Kery A. Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Cc: Fish & Richardson P.C.
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JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,465,444
Mamoru Watanabe
Issue Date: December 16, 2008
Application No. 10/472,743
Filed: March 4, 2004
Attorney Docket No. 14539-010US1
Title: METHODS OF SUPPRESSING OR TREATING AN INFLAMMATORY BOWEL DISEASE BY ADMINISTERING AN ANTIBODY OR PORTION THEREOF THAT BINDS TO AILIM

: DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 15, 2009, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred twenty-two (1,322) days. The petition was filed within two months of a decision by the Office mailed on June 15, 2009 partial grant of applicant's request for reconsideration of PTA under 37 CFR 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred twenty-two (1,322)days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand three hundred twenty-two (1,322) days.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,465,444 B2

DATED : **December 16, 2008** **DRAFT**

INVENTOR(S) : Mamoru Watanabe

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 811 days

Delete the phrase "by 811 days" and insert – by 1,322 days--

United States Patent and Trademark Office

08 DEC 2006

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BELL, BOYD & LLOYD, LLC
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CHICAGO IL 60690-1135

In re Application of
Elbers et al.
Application No. 10/472,746
PCT No.: PCT/DE02/00682
Int. Filing Date: 25 February 2002
Priority Date: 20 March 2001
Atty. Docket No.: 112740-870
For: Optical Network With Distributed Signal Regeneration

COMMUNICATION

This is in response to the petitions under 37 CFR 1.10(c) filed on 07 July 2004, 02 September 2004, 02 December 2004 and 06 June 2006.

BACKGROUND

This international application was filed on 25 February 2002, claimed an earliest priority date of 20 March 2001, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 26 September 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 22 September 2003 (since 20 September 2003 was a Saturday). Applicants filed, *inter alia*, the basic national fee on 22 September 2006.

On 20 January 2004, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicant, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be 23 September 2003.

DISCUSSION

Petitioner requests that this national stage application be accorded a "filing date" (date under 35 U.S.C. 371(c)(1), (2) and (4)) of 22 September 2003, rather than 23 September 2003 as indicated on the Form PCT/DO/EO/903.

Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with 37 CFR 1.10(c)(1).

The petition complies with 37 CFR 1.10(c)(2) because an Express Mail mailing label number, EV351198314US, was recorded on the Certificate of Mailing by Express Mail which accompanied and itemized the filing of the correspondence in question (including the transmittal letter, copy of the international application, English translation, copy of International Search Report, declaration, preliminary amendment, $900 check, and assignment, recordal and $40 fee).

With regard to 37 CFR 1.10(c)(3), counsel has provided a copy of the Express Mail mailing label, number EV351198314US, which shows a "date-in" of "9 22 03." Based on the totality of the evidence of record, it would be appropriate to conclude that 37 CFR 1.10(c)(3) has been satisfied. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 20 January 2004 is hereby **VACATED**.

CONCLUSION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) and a corrected filing receipt. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is corrected to **22 September 2003**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

#6

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09 JAN 2007

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In re Application of	:	
MARK W. ERWIN, ET AL.	:	
Appl. No.: 10/472,755	:	DECISION UNDER
PCT No.: PCT/CA02/00486	:	37 CFR 1.181
Int. Filing Date: 03 April 2002	:	
Priority Date: 03 April 2001	:	
Agent's File Reference: 10723-68	:	
For: COMPOSITIONS AND METHOD FOR ENHANCING PROTEOGLYCAN PRODUCTION		

Applicants' 21 November 2005 communication forwarding, inter alia, a copy of the oath/declaration filed 26 March 2004 via facsimile is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment and to vacate the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909 mailed 06 December 2004). No petition fee is required. The petition is **GRANTED.**

BACKGROUND

On 03 October 2003, applicants filed U.S. application 10/472,755 as a national stage entry of international application PCT/CA02/00486. An oath/declaration was not included with the application papers.

On 26 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) informing applicants that a signed oath/declaration accompanied by a $130 surcharge was due.

On 06 December 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicants that U.S. application 10/472,755 is abandoned because applicants purportedly failed to respond to the Form PCT/DO/EO/905 mailed 26 January 2004.

On 21 November 2005, applicants filed the present petition requesting that the Form PCT/DO/EO/909 mailed 06 December 2004 be vacated and that the copy of the accompanying oath/declaration be accepted in lieu of the original filed 26 March 2004 via facsimile.

DISCUSSION

37 CFR 1.8(b)(3) provides that a sending unit's report of transmission may be used as supporting evidence of the filing of correspondence with the USPTO.

A review of the 23 February 2004 communication reveals that applicants filed a response to the Form PCT/DO/EO/905 on 26 March 2004 via facsimile. The copy of the "Certificate of Transmission under 37 CFR 1.8"indicates that an "Executed Declaration", inter alia, was filed on 26 March 2004. Therefore, the copy of the oath/declaration may properly be **ACCEPTED as having been filed on 26 March 2004.** The Form PCT/DO/EO/909 mailed 06 December 2004 was sent in error. However, a review of the declaration reveals that applicants have not filed the complete declaration signed by each individual inventor. For instance, there are two pages of the declaration numbered as sheet 2. Thus, applicants have not filed a complete copy of the declaration.

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED.** The Form PCT/DO/EO/909 mailed 06 December 2004 is hereby **VACATED.** This application is being returned to the DO/EO/US for entry of the copy of the oath/declaration and the authorization to charge the $130 surcharge to counsel's Deposit Account No. 02-2095 as having been filed on 26 March 2004 and to mail a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916).

Leonard Smith
Supervisory PCT Legal Examiner
PCT Legal Office

JSF/LS:jf

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

(571) 272-3284

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NEW YORK NY 10010

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JUL 27 2005

OFFICE OF PETITIONS

Applicant: Brugger et al.
Appl. No.: 10/472,782
International Filing Date: March 15, 2002
Title: ELECTRICALLY ACTIVE FILMS
Attorney Docket No.: ICH-295US
Pub. No.: US 2005/0075913 A1
Pub. Date: April 7, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on June 7, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error as the wrong application was scanned into the file wrapper and published.

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 request is dismissed, as a decision would be premature. Applicant should file a filing date petition, as it appears that the application is incomplete and request reconsideration of this decision after the application is completed.

For questions concerning submitting a filing date petition in a National Stage entry application should be directed to the PCT Help desk at 571-272-4300.

[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).

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: 703-872-9306 or after July 15, 2005, 571-273-8300

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

27 OCT 2005

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United States Patent and Trademark Office
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www.uspto.gov

Dana L. Onofrio
Onofrio Law
1133 Broadway, Suite 1600
New York, New York 10010

In re Application of :
BRUGGER et al. :
U.S. Application No. 10/472,782 :
PCT No.: PCT/EP02/02890 : DECISION ON PETITION
Int. Filing Date: 15 March 2002 :
Priority Date: 20 March 2001 :
Attorney Docket No.: ICH 295-US :
For: ELECTRICALLY ACTIVE FILMS :

The above identified application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. Additionally, this decision is in response to applicants' "Letter" filed 27 June 2005, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 22 September 2002, applicants filed materials to initiate the U.S. national stage application of PCT International Application No. PCT/EP02/02890, filed on 15 March 2002. This submission included: 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); payment of the basic national fee; a substitute specification; a translation of the international application PCT/EP02/02890; and an executed declaration of inventors. A copy of the PCT International Application No. PCT/EP02/02890 was communicated to the United States Patent and Trademark Office from the International Bureau on 26 September 2002.

On 28 January 2004, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 22 September 2002. Subsequently, an Official Filing Receipt was issued indicating that "this application is a 371 of PCT/EP02/02890 dated 3/15/2002 which claims benefit of European Patent Office (EPO) dated 03/20/2001." The title of the invention was listed as "Electrically Active Films."

On 07 April 2005, the USPTO mailed Notice of Publication of Application indicating that the above-identified application will be electronically published as a patent application pursuant to 37 CFR 1.211.

On 27 June 2005, applicants filed "Letter" which is being treated as a Petition under 37 CFR 1.181.

DISCUSSION

Applicants state in the present petition that "[a]pplicants reviewed publication no. US-2005-0075913-A1 and noted that the abstract, specification, claims and drawings of this publication describes a completely different patent application than what was originally submitted on September 22, 2003." As noted above, the transmittal letter filed by applicants on 22 September 2003 reveal a clear request for the present application to be treated as a national stage application of PCT International Application no. PCT/EP02/02890. Therefore, it is concluded that the content of published application no. US-2005-0075913-A1 is not the specification, claims, and drawings for the national stage application of PCT/EP02/02890. Accordingly, applicants' request that the Image File Wrapper (IFW) be corrected with the proper documents and that the published application be corrected with proper specification, claim, abstract, and drawings is granted under 37 CFR 1.181.

CONCLUSION

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

The application file will be corrected so that the specification, claims, drawings, and abstract from PCT/EP02/02890 will be made the subject of the present application, and the substitute specification filed by applicant on 22 September 2002 will be applied thereto.

This application is being referred back to GAU 1745.

Leonard Smith
PCT Legal Examiner
Office of Legal Administration

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

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OFFICE OF PETITIONS

Applicant: Brugger et al.
Appl. No.: 10/472,782
International Filing Date: March 15, 2002
Title: ELECTRICALLY ACTIVE FILMS
Attorney Docket No.: ICH-295US
Pub. No.: US 2005/0075913 A1
Pub. Date: April 7, 2005

This is a decision on the request for reconsideration of the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 6, 2005, which was included with the petition to correct the application file with the correct application papers received on July 27, 2005, for the above-identified application

The request is granted.

The papers that were improperly processed and scanned into the application file have been placed in the closed folder.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

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

29 APR 2004

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Rockville, MD 20850

In re Application of YAN et al :
U.S. Application No.: 10/472,808 :
PCT Application No.: PCT/US02/01202 :
Int. Filing Date: 17 January 2002 :
Priority Date Claimed: 31 January 2001 : DECISION
Attorney Docket No.: CL001097-US :
For: ISOLATED HUMAN TRANSPORTER :
PROTEINS, NUCLEIC ACID MOLECULES :
ENCODING HUMAN TRANSPORTER :
PROTEINS, AND USES THEREOF :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 25 September 2003.

BACKGROUND

On 17 January 2002, applicant filed international application PCT/US02/01202, which claimed priority of an earlier United States application filed 31 January 2001. The thirty-month period for paying the basic national fee in the United States expired on 31 July 2003.

International application PCT/US02/01202 became abandoned as to the United States for failure to timely pay the basic national fee.

On 25 September 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

06 MAR 2006
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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of RANCIEN et al :
U.S. Application No.: 10/472,828 :
PCT Application No.: PCT/FR02/02742 :
Int. Filing Date: 30 July 2002 : DECISION
Priority Date Claimed: 30 July 2001 :
Attorney Docket No.: 117312 :
For: A METHOD OF MANUFACTURING AN :
ARTICLE COMPRISING AT LEAST ONE :
ELECTRONIC CHIP :

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) Declaration Already Filed" filed 12 April 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 30 July 2002, applicant filed international application PCT/FR02/02742, which claimed priority of an earlier France application filed 30 July 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 20 February 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 January 2004.

On 25 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 December 2003, applicant filed an executed declaration.

On 12 February 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 12 April 2004, applicant filed the present petition under 37 CFR 1.181.

On 23 April 2004, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

DISCUSSION

The declaration originally filed on 23 December 2003 has been located.

CONCLUSION

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

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 12 February 2004 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 30 July 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 December 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) and a corrected filing receipt.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

DENNEMEYER & CO LTD
REGENT HOUSE
HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

In re
Heger, et al.
Application No. 10/472,829
Filed: September 25, 2003
Patent No. 7,048,830
Issued: May 23, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed January 4, 2010.

The fee deficiency submission under 37 CFR 1.28 of $490 for the maintenance fee is hereby **accepted**.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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KRIEG DEVAULT LLP
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INDIANAPOLIS, IN 46204-2079

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OFFICE OF PETITIONS

In re Application of
Gerard Malgorn, et al.
Application No. 10/472,831
Filed: February 23, 2004
Attorney Docket No. FLTW-99

ON PETITION

This is a decision in response to the petition, filed April 4, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed June 1, 2006. A Notice of Abandonment was mailed on February 5, 2007. In response, on April 4, 2007, the present petition was filed, along with an amendment and a 3-month petition for extension of time.

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

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted April 4, 2007 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., September 2, 2006. Since no extension of time fees are due on a petition for revival, the $1,020 extension fee submitted after abandonment is being credited to counsel's deposit account.

The application is being referred to Technology Center AU 1723 for consideration of the amendment filed April 4, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

18 FEB 2004

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

In re Application of FEINBERG	:	
U.S. Application No.: 10/472,838	:	
PCT Application No.: PCT/US01/43229	:	
Int. Filing Date: 20 November 2001	:	DECISION
Priority Date Claimed: 24 November 2000	:	
Attorney Docket No.: 0922/63686-PCT-US	:	
For: ULTRASOUND WITHIN MRI SCANNERS FOR GUIDANCE OF MRI PULSE SEQUENCES	:	

This is in response to applicant's "Petition To Revive Unintentionally Abandoned Application Under 37 C.F.R. §1.137(b)" filed 23 September 2003.

BACKGROUND

On 20 November 2001, applicant filed international application PCT/US01/43229, which claimed priority of an earlier United States application filed 24 November 2000. The thirty-month period for paying the basic national fee in the United States expired on 24 May 2003.

International application PCT/US01/43229 became abandoned as to the United States for failure to timely pay the basic national fee.

On 23 September 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
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Troy, MI 48007-7021

In re Application of	:	
MORETTI, et al.	:	
Application No.: 10/472,839	:	DECISION ON PETITION
PCT No.: PCT/EP02/03076	:	
Int. Filing Date: 20 March 2002	:	UNDER 37 CFR 1.181
Priority Date: 29 March 2001	:	
Attorney Docket No.: RAG-1520/08	:	
For: DETACHABLE PLUG COUPLING PROVIDED WITH AN ADDITIONAL LOCKING ELEMENT	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 07 August 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 March 2002, applicant filed international application PCT/EP02/03076, which claimed priority of an earlier application filed 29 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 October 2002. Pursuant to 37 CFR 1.485, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 29 September 2003.

On 23 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) and a preliminary amendment.

On 23 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 executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. In addition, applicant was advised of the need to furnish an English translation of the international application as filed. 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 14 April 2004, applicant filed a response which included an executed declaration of

the inventors and payment of the appropriate surcharge for filing an oath or declaration later than thirty months from the priority date. In addition, applicant filed an purported English translation of the international application as filed.

On 28 April 2004, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/Do/EO/916) informing applicant that the filed English translation was defective. Applicant was afforded one month or the extendable time remaining from the Form PCT/DO/EO/905 to file a proper response.

On 22 May 2006, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/916 mailed 28 April 2004 within the time period set therein and that above-identified application was abandoned as to the United States.

On 07 August 2006, applicant filed the present petition to withdraw the holding of abandonment arguing that a response had been filed on 21 May 2004.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, serial number and attorney docket number. Among the items listed on the receipt is: "Other: English Translation." The receipt is stamped "DT02 Rec'd PCT/PTO 21 MAY 2004." Thus, it is clear that applicant filed an English translation on 21 May 2004. However, it is not possible to grant applicant's petition to withdraw the holding of abandonment at this time as it does not appear that applicant has presently included a copy of the filed English translation. As such, it is impossible to determine whether the filed English translation satisfied all of the concerns listed in the Form PCT/DO/EO/916 mailed 28 April 2004.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

#9

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Commissioner for Patents
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26 OCT 2006

Thomas E. Anderson
Gifford Krass Groh Sprinkle Anderson
& Citkowski, PC
2701 Troy Center Drive, Suite 330
P.O. Box 7021
Troy, MI 48007-7021

In re Application of	:	
MORETTI, et al.	:	
Application No.: 10/472,839	:	DECISION ON RENEWED
PCT No.: PCT/EP02/03076	:	
Int. Filing Date: 20 March 2002	:	PETITION UNDER
Priority Date: 29 March 2001	:	
Attorney Docket No.: RAG-1520/08	:	37 CFR1.181
For: DETACHABLE PLUG COUPLING PROVIDED	:	
WITH AN ADDITIONAL LOCKING ELEMENT	:	

This decision is in response to applicant's renewed petition under 37 C.F.R. § 1.181 filed 13 October 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 06 October 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 13 October 2006, applicant filed the present renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

Applicant previously provided a stamped return postcard showing that an English translation of the international application had been filed in the USPTO on 21 May 2004 in response to Form PCT/DO/EO/916 mailed 28 April 2004. However, applicant's petition was dismissed as applicant had not included a copy of the paper. Applicant has presently provided a copy of the translation and certified that it is a true and complete copy of the paper originally filed on 21 May 2004. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The "Notification of Abandonment" mailed 22 May 2006 is hereby **VACATED**.

This application has an international filing date of 20 March 2002 under 35 U.S.C. 363, and will be given a date of **21 May 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

COPY MAILED

JUL 27 2005

OFFICE OF PETITIONS

Applicant: Speck et al.
Appl. No.: 10/472,844
Filing Date: December 20, 2001
Title: PREPARATION FOR THE PROPHYLAXIS OF RESTENOSIS
Attorney Docket No.: D0460-7011US
Pub. No.: US 2005/0101522 A1
Pub. Date: May 12, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on July 11, 2005, for the above-identified application.

The request is granted.

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

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
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ARLINGTON VA 22201

In re Application of	:
Ulrich Speck et al	:
Serial No.: 10/472,844	: PETITION TO MAKE SPECIAL
Filed: September 26,2003	:
Attorney Docket No.: WEICKM-0050	:

This is in response to applicants' petition filed August 24, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **DENIED**.

Applicants state that the claims are directed to a single invention and that a pre-examination search was made. However, the claims are directed to several categories of invention (composition, catheter, etc.) although under PCT they may be of such a nature as to have Unity. Applicants fail to define what the parameters of the search are other than to indicate that they are relying on the search made in a PCT application. Such is insufficient in that class/subclass, data bases and other electronic resources are not identified, as required. No additional search appears to have been made by applicants. Applicants provide a detailed discussion of those references cited in several related PCT applications (approximately five references), but then provide an IDS listing 73 references (including those discussed) without further explanation of their pertinence. Each reference is required to be discussed and the claims distinguished thereover.

The application will be taken up for action in turn.

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

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

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WASHINGTON, DC 20001-4413

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of :
Tadahiro Ohmi et al :
Application No. 10/472,849 : ON PETITION
Filed: September 26, 2003 :
Attorney Docket No. 07043.0034 :

This is a decision on the petition filed, January 29, 2007 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 reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 19, 2006, which set a shortened statutory period for reply of three (3) months. Two-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 20, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 29, 2007.

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

This matters is being referred to Technology Center AU 1762 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of
Mears
Application No. 10/472,854
Filed: September 24, 2003
Title of Invention: Use of Conductor Compositions in Electronic Circuits

ON PETITION

This is a decision on the petition filed May 21, 2007 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

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

This above-identified 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 8, 2006. The final Office Action set a three (3) month shortened statutory period for reply. A reply and three month extension of time was obtained under the provisions of 37 CFR 1.136(a). An advisory action was mailed on May 10, 2007 stating that the April 19, 2007 reply failed to place the application in condition for allowance. Accordingly, this application became abandoned on May 9, 2007. This decision precedes the mailing of a Notice of Abandonment.

Petitioner has failed to provide the reason the application was unavoidably abandoned.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioner has failed to provide any evidence that a reply within the meaning of 37 CFR 1.113 was unavoidably delayed.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

---

[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.

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Sarah Jane Mears
Application No. 10/472,854
Filed: September 24, 2003
Title: Use of Conductor Compositions in Electronic Circuits

DECISION ON PETITION

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

This above-identified 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 8, 2006. The final Office Action set a three (3) month shortened statutory period for reply. A reply and three month extension of time was obtained under the provisions of 37 CFR 1.136(a). An advisory action was mailed on May 10, 2007 stating that the April 19, 2007 reply failed to place the application in condition for allowance. Accordingly, this application became abandoned on May 9, 2007. A petition was dismissed on June 18, 2007.

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

The address on the petition differs from the correspondence address of record. If appropriate a change of correspondence address should 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.

The Request for Continued Examination (RCE), and amendment will be referred to Art Unit 1742 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

cc: E.I. Du Pont DE Nemours and Company
Legal Patent Records Center
Barley Mill Plaza 25/1128
4417 Lancaster Pike
Wilmington, DE 19806

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Thomas W. Tolpin
Welsh & Katz, Ltd.
120 S. Riverside Plaza, 22nd Floor
Chicago IL 60606

In re Application of HARRY PROTOOLIS (deceased) Application No.: 10/472,873 PCT No.: PCT/AU02/00342 Int. Filing Date: 22 March 2002 Priority Date: 22 March 2001 Attorney Docket no.: 9098-90635 For: POSITIONING SYSTEM	:	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's Response to Notification of Missing Requirements filed in the United States Patent and Trademark Office (USPTO) on 24 March 2004 and treated as a request under 37 CFR 1.42.

BACKGROUND

On 19 September 2003, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 09 February 2004, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 24 March 2004, applicant filed a response to the Notification with a declaration was signed by inventors Phil Doolan and Ross Stuart and indicates that inventor Harry Protoolis is deceased.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration is defective since it does not identify the legal representative for deceased inventor Harry Protoolis and does not state the country of citizenship, former residency and mailing address for both the deceased inventor and the legal representative, as required for compliance with 37 CFR 1.497. Furthermore, the declaration is not signed by the legal representative on behalf of the deceased inventor. Thus, the declaration is not in compliance with 37 CFR 1.497 and 1.64.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

Applicant is required to correct the above-noted defects including the furnishing of new oath/declaration in compliance with 37 CFR 1.42 and 1.497 within **TWO (2) MONTHS** from the mail date of this Decision.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

31 AUG 2004

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Thomas W. Tolpin
Welsh & Katz, Ltd.
120 S. Riverside Plaza, 22nd Floor
Chicago IL 60606

In re Application of HARRY PROTOOLIS (deceased) Application No.: 10/472,873 PCT No.: PCT/AU02/00342 Int. Filing Date: 22 March 2002 Priority Date: 22 March 2001 Attorney Docket no.: 9098-90635 For: POSITIONING SYSTEM	DECISION ON RENEWED REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's Response to Notice of Missing Parts filed in the United States Patent and Trademark Office (USPTO) on 09 April 2004 and treated as a renewed request under 37 CFR 1.42.

BACKGROUND

On 09 February 2004, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 24 March 2004, applicant filed a response to the Notification with a declaration which was signed by inventors Phil Doolan and Ross Stuart and indicated that inventor Harry Protoolis was deceased. On 09 April 2004, applicant filed the instant response to the Notification with a declaration executed by "J. Graham", identified as executor for Harry Protoolis (deceased).

On 14 April 2004, a decision on the 24 March 2004 submission was mailed, indicating that the declaration was defective in that it was not in compliance with 37 CFR 1.497.

DISCUSSION

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration submitted on 09 April 2004 is defective since it identifies Harry Protoolis as the second joint inventor. The declaration submitted on 24 March 2004 identified Harry Protoolis as the third joint inventor. The declaration submitted on 09 April 2004 identifies "J. Graham as "executor for Harry Protoolis" (deceased). The declaration does not state the country

of citizenship, residency and mailing address for BOTH the deceased inventor and the legal representative, as required for compliance with 37 CFR 1.497. Thus, the declarations as submitted are not in compliance with 37 CFR 1.497 and 1.64.

What is required is a declaration executed by the legal representative, in compliance with 37 CFR 1.497(a) and (b). The declaration must identify all of the inventors as listed on the international application and include the country of citizenship, residency and mailing address for BOTH the deceased inventor and his legal representative.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

Applicant is required to correct the above-noted defects including the furnishing of new oath/declaration in compliance with 37 CFR 1.42 and 1.497 within **TWO (2) MONTHS** from the mail date of this Decision.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

30 DEC 2004

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#9

Thomas W. Tolpin
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120 S. Riverside Plaza, 22nd Floor
Chicago IL 60606

In re Application of HARRY PROTOOLIS (deceased) Application No.: 10/472,873 PCT No.: PCT/AU02/00342 Int. Filing Date: 22 March 2002 Priority Date: 22 March 2001 Attorney Docket no.: 9098-90635 For: POSITIONING SYSTEM	:	DECISION ON RENEWED REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's "Response to Decision on Request under 37 CFR 1.42" filed in the United States Patent and Trademark Office (USPTO) on 18 October 2004.

BACKGROUND

On 09 February 2004, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 24 March 2004, applicant filed a response to the Notification with a declaration which was signed by inventors Phil Doolan and Ross Stuart including their respective country of citizenship, residency and mailing address. The declaration also indicated that joint inventor Harry Protoolis was deceased.

On 14 April 2004, a decision on the 24 March 2004 submission was mailed, indicating that the declaration was defective and not in compliance with 37 CFR 1.497 because it did not identify the legal representative for the deceased inventor and did not state the country of citizenship, residency and mailing address for both the deceased inventor and his legal representative. .

On 31 August 2004, a decision was mailed on the declaration filed on 09 April 2004, which identified and was executed by "J. Graham", identified as executor for deceased inventor Harry Protoolis. The decision indicated that this declaration was unacceptable because it did not identify the joint inventors as listed on the international application and did not include the country of citizenship, residency and mailing address for both the deceased inventor and his legal representative.

On 18 October 2004, applicant filed a "Response to Decision on Request Under 37 CFR 1.42" along with a declaration executed by the legal representative on behalf of the deceased inventor.

DISCUSSION

The declaration filed on 18 October 2004 was executed by the legal representative, identifying all of the inventors as listed on the international application. This declaration included the country of citizenship, residency and mailing address for both the deceased inventor and his legal representative. The declaration filed on 18 October 2004 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing in accordance with this decision. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **18 October 2004.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286

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CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS TN 38116

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OFFICE OF PETITIONS

In re Application of	:	
John Rose	:	
Application No. 10/472,908	:	DECISION GRANTING PETITION
Filed: September 25, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P08061US00/WEJ	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 27, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/472,908	09/25/2003	John Rose	P08061US00/WEJ

CONFIRMATION NO. 3127

30559
CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

POA ACCEPTANCE LETTER

OC000000029143818

Date Mailed: 03/28/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/27/2008.

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

/kocreasy/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 26, 2007

TO SPE OF : ART UNIT 1773 Carol D Chaney

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/472,913 Patent No.: 7128969 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**.

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

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: _____

Carol D Chaney — 1773

SPE **Art Unit**

30 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Robert H. Berdo, Jr.
Rabin & Berdo, PC
1101 14th Street, NW
Suite 500
Washington, DC 20005

In re Application of	:	
MAE, et al.	:	
PCT No.: PCT/JP02/02976	:	DECISION ON PETITION
Application No.: 10/472,967	:	
Int. Filing Date: 27 March 2002	:	UNDER 37 CFR 1.181
Priority Date: 05 April 2001	:	
Atty. Docket No.: Al 315NP	:	
For: ELECTRIC WASHING MACHINE	:	

This is a decision on applicant's request for corrected filing receipt filed on 28 June 2005 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 27 March 2002, applicant filed international application PCT/JP02/02976 which claimed priority to an earlier application filed 05 April 2001. Applicant timely filed a transmittal letter for entry into the U.S. National stage on 26 September 2003.

On 05 April 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 14 March 2004.

On 23 July 2004, applicant filed a request for a corrected filing receipt as to the spelling of two of the named inventors on the official filing receipt.

On 28 June 2005, applicant filed the present petition for a corrected filing receipt seeking a 371 filing date of 19 March 2004 and re-submitting the request originally filed on 23 July 2004.

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, applicant and serial number. Among the items listed on the receipt are: "4) Declaration (2 pages)." The postcard is stamped "OIPE JC34 Patent and Trademark Office MAR 19 2004." In

addition, a review of the application file finds the originally filed declaration with a March 19, 2004 stamp. Therefore, the evidence is sufficient to establish that the executed declaration was received in the USPTO on 19 March 2004.

Lastly, the second and seventh named inventors names will be changed to Akira OKUNO and Yoshikazu BANBA respectively as those names are listed on the published international application and the filed declaration.

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 27 March 2002 under 35 U.S.C. 363 and a date of **19 March 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 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 05 April 2004 indicating a date of 14 March 2004 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/18/10

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 10472978 Patent No.: 7109461

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Georgia Y Epps
SPE

2878
Art Unit

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Jacqueline F. Mahoney
Perkin Coie, LLP
P.O. Box 2168
Menlo Park, CA 94026

0 4 JAN 2007

In re Application of :
TANAKA, et al. :
U.S. Application No.: 10/472,987 :
PCT No.: PCT/JP01/02512 : DECISION ON PETITION
Int. Filing Date: 27 March 2001 :
Priority Date: 27 March 2001 : UNDER 37 CFR 1.181
Attorney Docket No.: 59150-8024 :
For: VEGETATIVE GROWTH SPECIFIC PROMOTER: AND TRANSGENIC PLANT OBTAINED WITH : THE SAME :

This decision is in response to applicant's "Petition to Correct The Acceptance Date" filed 20 December 2006 in the United States Patent and Trademark Office (USPTO). The petition is being considered under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 March 2001, applicant filed international application PCT/JP01/02512. 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 27 September 2003.

On 26 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the full, U.S. basic national fee, an English translation of the international application and an executed, combined declaration and power of attorney of the inventors.

On 18 February 2004, applicant was mailed a "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a date of receipt of 26 September 2003 for the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and 27 September 2003 as the date of completion of all 35 U.S.C. 371 requirements.

On 20 December 2006, applicant filed the present petition seeking correction of the date of 27 September 2003 as the date of completion of all 35 U.S.C. 371 requirements.

DISCUSSION

Although applicant has presently provided a stamped return postcard showing receipt on 26 September 2003, a review of the filed transmittal letter shows that applicant did not check box number 4 indicating an express request ro begin national examination procedures at any time rather than delay until the expiration of 30 months from the priority date. As such, the Form PCT/DO/EO/903 is correct in indicating 27 September 2003 as the date of completion of all 35 U.S.C. 371 requirements.

CONCLUSION

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

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

21 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Benita J. Rohm
Rohm & Monsanto, P.L.C.
660 Woodward Ave., Suite 1525
Detroit, MI 48226

In re Application of SERINA et al	:	
U.S. Application No.: 10/472,988	:	
PCT Application No.: PCT/US01/08313	:	DECISION
Int. Filing Date: 16 March 2001	:	
Priority Date Claimed: 17 March 2000	:	
Attorney Docket No.: RM.WSE	:	
For: MIS HYDROGEN SENSORS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 September 2003.

BACKGROUND

On 16 March 2001, applicant filed international application PCT/US01/08313, which claimed priority of an earlier United States application filed 17 March 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 September 2001. The twenty-month period for paying the basic national fee in the United States expired on 17 November 2001.

International application PCT/US01/08313 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 September 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

26 JAN 2004

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FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

In re Application of HOI SANG U Serial No.: 10/473,003 PCT No.: PCT/US02/09160 Int. Filing Date: 23 March 2002 Priority Date: 23 March 2001 Attorney's Docket No.: 15670-027US1 For: GENERATION OF MULTIPOTENT CENTRAL NERVOUS SYSTEM CELLS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 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 $360 was provided. The required petition fee of $650 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventor and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

It is noted that the submission for filing under 35 U.S.C. 371 is made in the names of Farid Saljooque and Warren J. Alilain, whose names do not appear on the published international application. Applicant is advised that if these inventors were added as a PCT Rule 92*bis* change, a copy of the International Bureau's communication adding these inventors is required. If these inventors were not added during the international stage, a petition under 37 CFR 1.497(d) is required.

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

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

31 MAR 2004

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AKC Patents
215 Grove Street
Newton, MA 02466

In re Application of :
KIRSCH et al. :
Application No.: 10/473,022 :
PCT No.: PCT/EP02/03398 : NOTIFICATION
Int. Filing Date: 26 March 2002 :
Priority Date: 26 March 2001 :
Attorney Docket No.: REUS-1 :
For: METHOD AND APPARATUS FOR STRUCTURING AND SEARCHING SETS OF SIGNALS

This notification is in response to "Response to Notice of Missing Requirements" filed in the Patent and Trademark Office (PTO) on 20 January 2004.

BACKGROUND

On 26 March 2002, applicant filed international application PCT/EP02/03398 which claimed a priority date of 26 March 2001. The international application listed Harald Kirsch and Dietrich Schuhmann as applicant/ inventors. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States at midnight on 26 September 2003.

On 25 September 2003, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; a preliminary amendment; and an executed declaration.

On 06 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the second inventor's name did not correspond with the name listed on the published international application. The notification set a two-month time limit in which to respond.

On 20 January 2004, applicant filed "Response to Notice of Missing Requirements" which stated that the correct name of the second inventor is Detrich Rebholz-Schuhmann.

DISCUSSION

A review of the declaration reveals that the correct name of the second inventor is Dietrich REBHOLZ-Schuhmann. In that this is clearly more than a mere typographical error or a phonetic misspelling of applicant's given name on the published international application, a 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 $130 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

A proper response must be filed within **ONE MONTH** from the mail date of this notification. Any reconsideration request should include a cover letter entitled "Petition Under 37 CFR 1.182", and must include the requisite petition fee and an acceptable explanation of the facts as discussed above. No extensions of this time limit may be obtained under 37 CFR 1.136(a), but the period for response set forth in the "Notification of Missing Requirements" mailed 06 January 2004 may be extended up to a maximum of five months.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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AKC Patents
215 Grove Street
Newton, MA 02466

In re Application of :
KIRSCH et al. :
Application No.: 10/473,022 :
PCT No.: PCT/EP02/03398 : DECISION ON PETITION
Int. Filing Date: 26 March 2002 :
Priority Date: 26 March 2001 :
Attorney Docket No.: REUS-1 :
For: METHOD AND APPARATUS FOR STRUCTURING AND SEARCHING SETS OF SIGNALS

This is a decision on applicants' "Petition under 37 CFR 1.182" filed in the Patent and Trademark Office (PTO) on 29 April 2004. Applicants are requesting to change the name of the second inventor from Dietrich Schuhmann to Dietrich Rebholz-Schuhmann due to marriage. The petition was accompanied by an affidavit signed by Dietrich Rebholz-Schuhmann using both her former name and present name. The $130 petition fee has been submitted.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 25 September 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Dietrich Schuhmann to Dietrich Rebholz-Schuhmann is **GRANTED**. This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing

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

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 3/6/2008
Patent No. : 7,286,715 B2
Inventor(s) : Togashi et al.
Issue Date : October 23, 2007
Title : **QUANTIZATION APPARATUS, QUANTIZATION METHOD, QUANTIZAT PROGRAM, AND RECORDING MEDIUM**
Doc./File No. : 450100-03810

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error in your request, with respect to the omitted priority claim, section 201.14(b) of the Manual of Patent Examining Procedures, states that if the certified copy is presented in a parent application on file in the Patent and Trademark Office, it is not necessary to file an addition certified copy. However, it is clear that the Manual statement, in accordance with the statutory requirement, requires the filing of a claim of priority in the continuing application(s). Absent such a claim, statutory requirement have not been met. Therefore, no correction is in order here under Rules 1.322.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

William S. Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

ecw

13 JUN 2006

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

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of	:	
AL-HAJJAR	:	DECISION
Application No.: 10/473,039	:	
PCT No.: PCT/IB02/00843	:	
Int. Filing Date: 20 March 2002	:	
Priority Date: 30 March 2001	:	
Attorney's Docket No.: 08788.0023USWO	:	
For: NOVEL ANTIBIOTICS	:	

This is a decision in response to applicant's "REQUEST FOR CORRECTION OF FILING RECEIPT", filed in the United States Patent and Trademark Office (USPTO) on 21 November 2005.

BACKGROUND

On 20 March 2002, applicant filed international application PCT/IB02/00843, which claimed a priority date of 30 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 at midnight on 30 September 2003.

On 26 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 unexecuted declaration of the inventor.

On 16 January 2004, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 02 February 2004, applicant filed an executed declaration of the inventor.

On 25 March 2004, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according a 371(c)(1),

(c)(2), and (c)(4) date of 02 February 2004.

On 21 November 2005, applicant submitted a "REQUEST FOR CORRECTION OF FILING RECEIPT" requesting that the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date be changed from 02 February 2004 to 26 September 2003.

DISCUSSION

Applicant did not file a declaration in compliance with 37 CFR 1.497(a)-(b) as required by 35 U.S.C. 371(c)(4) until 02 February 2004. Accordingly, no action is required regarding applicants' request to correct the filing date.

For applicant's information, attention is directed to MPEP § 1893.03(b), which states:

> An international application designating the U.S. has two stages (international and national) with the filing date being the same in both stages. Often the date of entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application. Specifically, 35 U.S.C. 363 provides that
>
> An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.
>
> Similarly, PCT Article 11(3) provides that
>
> ...an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.
>
> 37 CFR 1.496(a), first sentence, reads "International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met." Thus, when the file wrapper label or PALM bib-data sheet and filing receipt are printed, the information is read from the PALM data base and the information printed in the filing date box is the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements rather than the actual international filing date.
>
> The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903), a copy of which is reproduced in MPEP § 1893.03(a), indicates the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements, and it also indicates the date of completion of all 35 U.S.C. 371 requirements, which is further explained below.
>
> The "Application Filing Date" field formerly displayed in PAIR was changed to "Filing or 371(c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date. . . .

CONCLUSION

For the reasons set forth above, applicants' request for a corrected filing receipt is **DISMISSED** without prejudice.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Al-Hajjar, Farouk Hussni :
Application No. 10/473,039 : ON PETITION
Filed: February 2, 2004 :
Attorney Docket No. 08788.0023USWO :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

OIPE JC18
DEC 20 2004
PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of
Shinji TONGU, et al.

Docket No: Q77297

Appln. No.: 10/473,046

Group Art Unit: Not Yet Assigned

Confirmation No.: Not Yet Assigned

Examiner: Not Yet Assigned

Filed: September 26, 2003

For: AIR CONDITIONER

RENEWED SUBMISSION UNDER 37 C.F.R. § 1.497(d)

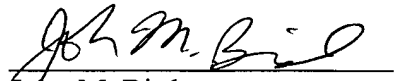
MAIL STOP PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision Under 37 C.F.R. § 1.497(d), dated September 20, 2004, Applicant submits herewith a Consent of the Assignee to Correction of Inventorship in Accordance with 37 C.F.R. § 1.97(d)(3). Applicant respectfully submits that because the assignee has executed this Consent of the Assignee to Correction of Inventorship, the requirement of 37 C.F.R. § 1.497(d)(3) has been fulfilled. Accordingly, Applicant respectfully requests that the USPTO reconsider the Decision Under 37 C.F.R. § 1.497(d).

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



John M. Bird
Registration No. 46,027

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WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: December 20, 2004

31 MAR 2004
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ALEXANDRIA, VA 22313-1450
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Sughrue Mion, PLLC
2100 Pennsylvania Ave., NW
Washington, DC 20037

In re Application of	:	
Tongu et al.	:	
Application No.: 10/473,046	:	DECISION
PCT No.: PCT/JP02/02924	:	
Int. Filing Date: 26 March 2002	:	UNDER
Priority Date: 26 March 2001	:	
Attorney Docket No.: Q77297	:	37 CFR 1.497(d)
For: Air Conditioner	:	

This is a decision on applicants' "Statement Of Added Inventor In Support Of Petition Under 37 C.F.R. § 1.48 To Correct Inventorship" filed on 26 September 2003, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 26 March 2002 and claimed a priority date of 26 March 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 31 October 2002. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 26 September 2003.

On 26 September 2003, applicants filed *inter alia* the basic national fee.

DISCUSSION

The declaration of the inventors filed on 08 September 2003 lists an inventor (Takayuki Yamazaki) whose name does not appear in the published international application. No Form PCT/IB/306 reflecting the recording of this change is present in the application file. Since the inventive entity named in the declaration differs from that named in the published international application, treatment under 37 CFR 1.497(d) is proper.

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 such a statement.

Regarding requirement (2), the required processing fee is being charged to counsel's Deposit Account No. 19-4880, per the fee authorization filed on 26 September 2003.

Regarding requirement (3), inspection of the published international application suggests that YAZAKI CORPORATION may enjoy assignment rights in this application, but counsel has neither

explicitly addressed the issue of assignment nor furnished satisfactory written consent of any assignee per 37 CFR 3.73(b). In the absence of either acceptable documentation of the assignee's consent or of an affirmative indication that no assignment interests pertain to this application, requirement (3) cannot be said to have been satisfied.

For the reasons explained above, it would not be appropriate to accept the papers under 37 CFR 1.497(d) on the basis of the present record.

CONCLUSION

The declaration filed on 26 September 2003 is not accepted under 37 CFR 1.497 (d).

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 are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application. 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.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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20 SEP 2004

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Sughrue Mion, PLLC
2100 Pennsylvania Ave., NW
Suite 800
Washington, DC 20037

In re Application of	:	
Tongu et al.	:	
Application No.: 10/473,046	:	DECISION
PCT No.: PCT/JP02/02924	:	
Int. Filing Date: 26 March 2002	:	UNDER
Priority Date: 26 March 2001	:	
Attorney Docket No.: Q77297	:	37 CFR 1.497(d)
For: Air Conditioner	:	

This is a decision on applicants' "Statement Of Added Inventor In Support Of Petition Under 37 C.F.R. § 1.48 To Correct Inventorship" filed on 26 September 2003, which is being treated under 37 CFR 1.497(d).[1]

BACKGROUND

This international application was filed on 26 March 2002 and claimed a priority date of 26 March 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 31 October 2002. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 26 September 2003.

On 26 September 2003, applicants filed *inter alia* the basic national fee.

DISCUSSION

The declaration of the inventors filed on 08 September 2003 lists an inventor (Takayuki Yamazaki) whose name does not appear in the published international application. No Form PCT/IB/306 reflecting the recording of this change is present in the application file. Since the inventive entity named in the declaration differs from that named in the published international application, treatment under 37 CFR 1.497(d) is proper.

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.).

---

[1]A decision was previously mailed on 31 March 2004, but was returned to the USPTO as the suite number portion of counsel's address inadvertently was omitted. Accordingly, the decision is being re-mailed, thus establishing a new time period for reply.

Regarding requirement (1), applicants have provided such a statement.

Regarding requirement (2), the required processing fee is being charged to counsel's Deposit Account No. 19-4880, per the fee authorization filed on 26 September 2003.

Regarding requirement (3), inspection of the published international application suggests that YAZAKI CORPORATION may enjoy assignment rights in this application, but counsel has neither explicitly addressed the issue of assignment nor furnished satisfactory written consent of any assignee per 37 CFR 3.73(b). In the absence of either acceptable documentation of the assignee's consent or of an affirmative indication that no assignment interests pertain to this application, requirement (3) cannot be said to have been satisfied.

For the reasons explained above, it would not be appropriate to accept the papers under 37 CFR 1.497(d) on the basis of the present record.

CONCLUSION

The declaration filed on 26 September 2003 is not accepted under 37 CFR 1.497 (d).

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 are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application. 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.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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28 JUN 2005

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Suite 800
Washington, DC 20037

In re Application of	:	
Tongu et al.	:	
Application No.: 10/473,046	:	DECISION
PCT No.: PCT/JP02/02924	:	
Int. Filing Date: 26 March 2002	:	ON
Priority Date: 26 March 2001	:	
Attorney Docket No.: Q77297	:	PETITION
For: Air Conditioner	:	

This is a decision on the petition to withdraw the holding of abandonment and the renewed petition under 37 CFR 1.497(d) filed on 09 June 2005.

DISCUSSION

Petition To Withdraw Holding Of Abandonment

Counsel petitions for withdrawal of the holding of abandonment on the basis that applicants allegedly filed a response (on 20 December 2004) to the decision mailed on 20 September 2004. The petition is accompanied by a copy of a receipt itemizing a "Renewed Submission Under 37 C.F.R. § 1.497(d)..." and a petition for extension of time, and stamped as received by "OIPE"on 20 December 2004. Counsel's description of this receipt as an "OIPE date stamped filing receipt" is construed as a statement that the receipt accompanied the filing by hand of correspondence with OIPE, and that the receipt was date stamped and returned by hand to applicants' agent upon filing of the correspondence. Counsel is required to promptly notify this Office if this interpretation is incorrect.

Counsel states that the copies of the itemized documents, filed on 09 June 2005, are copies of the documents originally filed on 20 December 2004. MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, the copies of the "Renewed Submission Under 37 C.F.R. § 1.497(d)..." and the petition for extension of time filed on 09 June 2005 are being accepted as copies of the respective papers filed on 20 December 2004. Insofar as applicants filed a timely response to the decision mailed on 20 September 2004, the holding of abandonment is hereby **WITHDRAWN** and the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 26 May 2005 is hereby **VACATED**.

Submission Under 37 CFR 1.497(d)

In a decision mailed on 20 September 2004, the declaration of the inventors filed on 08 September 2003 was not accepted under 37 CFR 1.497(d) because

> Regarding requirement (3), inspection of the published international application suggests that YAZAKI CORPORATION may enjoy assignment rights in this application, but counsel has neither explicitly addressed the issue of assignment nor furnished satisfactory written consent of any assignee per 37 CFR 3.73(b). In the absence of either acceptable documentation of the assignee's consent or of an affirmative indication that

no assignment interests pertain to this application, requirement (3) cannot be said to have been satisfied.

The instant renewed submission is accompanied by a "Consent Of The Assignee..." consenting to the change in inventorship and signed by Shinji Yazaki, who is identified as "President" and who also represents that "the undersigned (whose title is supplied below) is empowered to sign this consent statement on behalf of the assignee." The document indicates that an assignment document signed by all of the inventors in favor of Yazaki Corporation was recorded on 26 September 2003 at Reel No. 014938, Frame 0017. In view of the totality of evidence now of record, the requirements of 37 CFR 1.497(d)(3) and 3.73(b) have been satisfied. Accordingly, it would now be appropriate to accept the declaration under 37 CFR 1.497(d).

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The declaration filed on 26 September 2003 is **ACCEPTED** under 37 CFR 1.497(d).

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **26 September 2003**.

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

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Patent No. 7,030,246	:	DECISION ON
Bladh, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: April 18, 2006	:	AND NOTICE OF INTENT
Application No. 10/473,056	:	TO ISSUE
Filed: January 8, 2004	:	CERTIFICATE OF
Attorney Docket No. 06275-366US1	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 37 CFR 1.705(d)", filed June 16, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from fifty-one (51) days to one hundred seventy-one (171) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred seventy-one (171)** days.

On April 18, 2006, the above-identified application matured into U.S. Patent No. 7,030,246. The instant request for reconsideration filed June 16, 2006 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of fifty-one (51) days.

Patentees state that the patent is not subject to a terminal disclaimer.

Patentees assert that they should not have been assessed applicant delay of one hundred twenty (120) days.

A review of the application filed reveals that applicants were assessed delay of one hundred twenty (120) days for the submission of a "RESPONSE TO NOTICE OF ALLOWANCE", transmitting the PTOL-85b and a check in the amount of $1730, on November 29, 2005. A "RESPONSE TO NOTICE OF ALLOWANCE" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of applicant's "RESPONSE TO NOTICE OF ALLOWANCE" is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of one hundred twenty (120) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is one hundred seventy-one (171) days (171 (151+20) days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred seventy-one (171)** days subject to any disclaimers.

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

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

Enc: draft certificate of correction

---

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,030,246 B2

DATED : April 18, 2006

INVENTOR(S) : Bladh, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (51) days

Delete the phrase "by 51 days" and insert – by 171 days—

Day : Tuesday
Date: 7/25/2006

PALM INTRANET

Time: 10:57:39

PTA Calculations for Application: 10/473056			
Application Filing Date:	09/29/2003	PTO Delay (PTO):	171
Issue Date of Patent:	04/18/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	171
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
37	07/25/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
33	04/18/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	20		27
32	03/21/2006	EXPORT TO FINAL DATA CAPTURE			
31	03/18/2006	FINISHED INITIAL DATA CAPTURE			
30	03/20/2006	DISPATCH TO FDC			
29	11/29/2005	MISCELLANEOUS INCOMING LETTER		120	
28	01/20/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
27	11/29/2005	ISSUE FEE PAYMENT VERIFIED			
26	11/29/2005	ISSUE FEE PAYMENT RECEIVED			
25	09/26/2005	EXPORT TO INITIAL DATA CAPTURE			
24	09/21/2005	MAIL NOTICE OF ALLOWANCE			
23	09/19/2005	ISSUE REVISION COMPLETED			
22	09/19/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
21	09/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	09/19/2005	NOTICE OF ALLOWABILITY			
19	08/04/2005	DATE FORWARDED TO EXAMINER			
18	07/28/2005	RESPONSE AFTER NON-FINAL ACTION			
17	04/29/2005	MAIL NON-FINAL REJECTION	151		-1
16	04/28/2005	NON-FINAL REJECTION			
15	02/24/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/29/2003	PRELIMINARY AMENDMENT			

12	02/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	01/08/2004	MISCELLANEOUS INCOMING LETTER			
10	01/08/2004	371 COMPLETION DATE			
9	03/31/2004	APPLICATION RETURN FROM OIPE			
8	03/31/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	03/31/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
6	03/31/2004	APPLICATION RETURN TO OIPE			
5	03/05/2004	CLEARED BY OIPE CSR			
3	02/17/2004	APPLICATION DISPATCHED FROM OIPE			
2	02/17/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	09/29/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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2111 EISENHOWER AVENUE
SUITE 406
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Ron Shimon Estrin	:	
Application No. 10/473,081	:	DECISION ON PETITION
Filed: September 26, 2003	:	TO WITHDRAW
Attorney Docket No. 14459NP	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 28, 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 Ralph A. Dowell on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RON SHIMON ESTRIN
908 WEST 22ND AVENUE
VANCOUVER, BRTITSH COLUMBIA V5Z 2Z1
CANADA

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/473,081	09/26/2003	Ron Shimon Estrin	14459NP

CONFIRMATION NO. 8584

POWER OF ATTORNEY NOTICE

293
Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria, VA 22314

Date Mailed: 11/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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Bib Data Sheet

CONFIRMATION NO. 8584

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/473,081	09/26/2003 RULE	704	2626	

APPLICANTS

Ron Shimon Estrin, Columbia, CANADA;

**** CONTINUING DATA ***************************

This application is a 371 of PCT/CA01/00401 03/28/2001

**** FOREIGN APPLICATIONS *********************

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	CANADA	19	20	5

35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance

Verified and Acknowledged _____ Examiner's Signature Initials

ADDRESS

AIR MAIL

RON SHIMON ESTRIN
908 WEST 22ND AVENUE
VANCOUVER, BCV5Z 2A1
CANADA

TITLE

Authentication methods apparatus, media and signals

FILING FEE RECEIVED	FEES: Authority has been given in Paper	
1068	No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

07 JUL 2004

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Paul T. Clark
Clark & Elbing LLP
101 Federal Street
Boston, MA 02110-2214

In re Application of :
KUCZEK et al. :
Application No.: 10/473,092 :
PCT No.: PCT/PL02/00027 :
Int. Filing Date: 28 March 2002 :
Priority Date: 28 March 2001 :
Attorney Docket No.: 50330/002001 :
For: TYPE II THIOESTERASE FROM STREPTOMYCES COELICOLOR A3(2) AND THE CODING SEQUENCE

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 17 June 2004 which is being treated as a Petition under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/PL02/00027, which claimed a priority date of 28 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, 28 September 2003.

On 26 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 17 February 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). Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e). The notification set a two-month time limit in which to respond.

On 17 June 2004, applicants filed: a sequence listing and sequence listing in computer readable form; a check in the amount of $210; and a declaration executed by three of the four inventors and Barbara Kuczek on behalf of deceased inventor, Katarzyna Kuczek.

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 17 June 2004 was executed by Barbara Kuczek as "executor" to the deceased inventor, Katarzyna Kuczek. The declaration has been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative (executor, administrator, etc.). The declaration filed on 17 June 2004 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the executor or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

The sequence listing and sequence listing in computer readable form has been forwarded to Scientific and Technical Information Center for further processing.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

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

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

16 DEC 2004

#12

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Paul T. Clark
Clark & Elbing LLP
101 Federal Street
Boston, MA 02110-2214

In re Application of :
KUCZEK et al. :
Application No.: 10/473,092 :
PCT No.: PCT/PL02/00027 :
Int. Filing Date: 28 March 2002 :
Priority Date: 28 March 2001 :
Attorney Docket No.: 50330/002001 :
For: TYPE II THIOESTERASE FROM STREPTOMYCES COELICOLOR A3(2) AND THE CODING SEQUENCE

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is in response to "Renewed Submission under 37 CFR 1.42" filed 19 August 2004. No petition fee is required.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/PL02/00027, which claimed a priority date of 28 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, 28 September 2003.

On 26 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 17 February 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). Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e). The notification set a two-month time limit in which to respond.

On 17 June 2004, applicants filed: a sequence listing and sequence listing in computer readable form; a check in the amount of $210; and a declaration executed by three of the four inventors and Barbara Kuczek on behalf of deceased inventor, Katarzyna Kuczek. In a Decision dated 07 July 2004, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 19 August 2004, applicant filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

In response to the "Decision on Papers under 37 CFR 1.42" mailed 07 July 2004, counsel states that the "declaration is executed by three living inventors and by the executor of the estate of the deceased inventor . . . and that the decedent does not have a mailing address, and providing her former mailing address would serve no purpose . . . "

37 CFR 1.497(b)(2) states:

> 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.

Further, 37 CFR 1.63(c)(1) states the oath or declaration must identify:

> The mailing address of. . .each inventor. (If an application data sheet has not been provided in accordance with 37 CFR 1.76)

Here, the declaration submitted on 17 June 2004 was executed by Barbara Kuczek as "executor" to the deceased inventor, Katarzyna Kuczek and provides the residence, citizenship, and post office address for the legal representative (executor, administrator, etc.) but fails to provide this information for the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

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 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

03 MAR 2005

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Paul T. Clark
Clark & Elbing LLP
101 Federal Street
Boston, MA 02110-2214

In re Application of :
KUCZEK et al. :
Application No.: 10/473,092 :
PCT No.: PCT/PL02/00027 :
Int. Filing Date: 28 March 2002 :
Priority Date: 28 March 2001 :
Attorney Docket No.: 50330/002001 :
For: TYPE II THIOESTERASE FROM STREPTOMYCES COELICOLOR A3(2) AND THE CODING SEQUENCE

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is in response to "Renewed Submission under 37 CFR 1.42" filed 14 February 2005. No petition fee is required.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/PL02/00027, which claimed a priority date of 28 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, 28 September 2003.

On 26 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 17 February 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). Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e). The notification set a two-month time limit in which to respond.

On 17 June 2004, applicants filed: a sequence listing and sequence listing in computer readable form; a check in the amount of $210; and a declaration executed by three of the four inventors and Barbara Kuczek on behalf of deceased inventor, Katarzyna Kuczek. In a Decision dated 07 July 2004, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 19 August 2004, applicants filed "Renewed Submission under 37 CFR 1.42." In a Decision dated 16 December 2004, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 14 February 2005, 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 declaration submitted on 17 June 2004 was executed by Barbara Kuczek as "executor" to the deceased inventor, Katarzyna Kuczek. The declaration has been executed by the proper party under 37 CFR 1.42. Counsel avers that, "the deceased inventor's mailing address and the mailing address of the deceased inventor's executor are the same." (The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting above statement regarding the executor's citizenship, residence, and mailing address as referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63.) Therefore, the declaration is acceptable under 37 CFR 1.42

CONCLUSION

The declaration filed under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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

08 MAY 2006

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Commissioner for Patents
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Kathryn L. Siebruth
GlaxoSmithKline
Corporate Intellectual Property · UW2220
P.O. Box 1539
King of Prussia, PA 19406·0939

In re Application of
MARINO et al.
Application No.: 10/473,106
PCT No.: PCT/US02/09436
Int. Filing Date: 28 March 2002
Priority Date: 29 March 2001
Attorney Docket No.: P51251
For: COMPOUNDS AND METHODS

DECISION

This decision is issued in response to applicants' "Petition to Withdraw Abandonment under 37 CFR 1.181" filed 25 April 2006.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/US02/09436 which claimed a priority date of 29 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 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, 29 September 2003.

On 29 September 2003, applicants filed a Transmittal Letter (PTO·1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 30 January 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 30 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 30 January 2004 within the time period set therein.

On 25 April 2006, applicants filed "Petition to Withdraw Abandonment under 37 CFR 1.181" which included an executed declaration. Petitioner alleges that the executed declaration was submitted by facsimile on 06 February 2004.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 06 February 2004 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the 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 Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

The evidence filed with the present petition is convincing that the 06 February 2004 response included a declaration with a certificate of facsimile transmission. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items facsimiled on 06 February 2004, (2) supplied copies of the previously transmitted correspondence; and (3) provided a copy of the sending unit 's report confirming transmission on 06 February 2004 with a statement which attests on a personal knowledge of the previous timely transmission. The declaration submitted on 25 April 2006 will be considered as a timely response to the Notification of Missing Requirements mailed 30 January 2004; however, the declaration will be given a receipt date of 25 April 2006 . (See 37 CFR 1.8(a))

As the declaration was filed after 30 months from the priority date, the required surcharge of $130 under 37 CFR 1.492(e) will be charged to Deposit Account No. 19-2570.

CONCLUSION

Therefore, applicants' petition under 37 CFR 1.181 is **GRANTED** and the holding of abandonment has been withdrawn.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 28 March 2002 and a date of 25 April 2006 under 35 U.S.C. 371.

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

Anthony Smith
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Office of PCT Legal Administration
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19 AUG 2005

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Norris, Mclaughlin & Marcus PA
875 Third Ave, 18th Floor
New York, NY 10022

In re Application of	:	
CHANNER	:	DECISION ON
Application No.: 10/473,111	:	
PCT No.: PCT/GB02/01419	:	PETITION
Int. Filing Date: 27 March 2002	:	
Priority Date: 29 March 2001	:	UNDER 37 CFR 1.47(b)
Attorney's Docket No.: 102792-184	:	
For: IMPROVEMENTS IN OR RELATING TO AIR FRESHENING DEVICES	:	

This is in response to the petition under 37 CFR 1.47(b), filed June 09, 2005, to permit the applicant to file the above-captioned application on behalf of the assignee and on behalf of the non-signing inventor Robert Vern Channer. The petition under 37 CFR 1.47(b) is DISMISSED as moot. No petition fee is required.

BACKGROUND

On 27 March 2002, applicant filed international application PCT/GB02/01419, which claimed priority of an earlier British application filed 29 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 October 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 23 October 2002. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 September 2003.

On 29 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); and a unexecuted declaration.

On 30 January 2004, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903).

On 07 January 2005, the Office mailed a first Office action on the merits indicating that the declaration was defective because the declaration had not been executed.

On 09 June 2005 applicant filed the present petition under 37 CFR 1.147(b) requesting acceptance of the application without the signature of the applicant.

DISCUSSION

A review of the file reveals that Mr. Channer executed a declaration under PCT Rule 4.17(iv) on 08 May 2002 and filed the declaration during the international phase of the application pursuant to 37 PCT Rule 26*ter*.1. Because the declaration under PCT Rule 4.17(iv) is in compliance with the US Rule 1.497(a)[1] the declaration is acceptable. Accordingly, the petition is not necessary.

It is noted that the Official Filing Receipt failed to list the foreign priority claim. The USPTO's database has been corrected and a corrected filing receipt will be issued.

CONCLUSION

The petition under 37 CFR 1.47(b) is DISMISSED as moot.

The application is being returned to the patent examiner for further examination.

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

[1] (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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2007

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No. 10/473141 patent no.7140295

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: _____

JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

_____ 2854
SPE Art Unit

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JONES TULLAR & COOPER
EADS STATION
PO BOX 2266
ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of :
Ralf Christel et al :
Application No. 10/473,147 : ON PETITION
Filed: January 2, 2004 :
Attorney Docket No. W1.1890PCT-US :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed December 2, 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 November 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2854 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

[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).

24 FEB 2004

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Daniel Azoulay
4524, Harris
Laval, Quebec H2T 2P1
CANADA

In re Application of	:	
AZOULAY, Daniel	:	
Application No.: 10/473,155	:	
PCT Application No.: PCT/CA02/00254	:	DECISION ON
International Filing Date: 27 February 2002	:	
Priority Date: 27 February 2001	:	PETITION
	:	
For: PILLOW HEIGHT ADJUSTMENT DEVICE	:	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 United States Patent and Trademark Office on 29 September 2003 is **GRANTED**.

BACKGROUND

On 27 February 2002, applicant filed international application number PCT/CA02/00254. A copy of the international application was transmitted by the International Bureau on 6 September 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 27 August 2003.

On 29 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. On 29 September 2003, applicant filed a petition to revive and a petition fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a 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 respect to item (1) above, applicant's statement that "[t]he 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).

With respect to item (2) above, applicant filed the national stage filing papers and fees on 29 September 2003.

With respect to item (3) above, applicant has filed the required petition fee.

With respect to item (4) above, 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 the National Stage in the United States of America.

The application has an international filing date of 27 February 2002 under 35 U.S.C. §363 and a date of 29 September 2003 under 35 U.S.C. §371(c)(1), (c)(2), and (c)(4). The application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Michael La Villa
PCT Legal Administration Office
Detailee

Telephone (703) 308-6162
Facsimile (703) 308-6459

Boris Milef
PCT Legal Administration Office
PCT Legal Examiner

Telephone: (703) 308-3659
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BLANK ROME LLP
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WASHINGTON DC 20037

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APR 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Fisson et al.	:	
Application No. 10/473,170	:	ON PETITION
Filed: 29 September, 2003	:	
Attorney Docket No. 113035-00127	:	

This is a decision in reference to the "PETITION FOR REVIVAL," filed on 20 December, 2006, which is treated as a petition to withdraw the holding of abandonment, and, in the alternative, as a petition under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **GRANTED**.

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

This application was held abandoned on 25 November, 2005, for failure to submit a timely response to the Office action requiring restriction and/or election mailed on 24 October, 2005, which set a one (1)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 9 May, 2006.

Petitioners assert that the Office action mailed on 24 October, 2005, was not timely received because it was not mailed to the correct address. Specifically, petitioners assert that it was mailed to counsel's previous address of Suite 1000, 900 17th Street, NW, Washington, DC 20006, rather than the current correspondence address which was specified in the transmittal letter filed with the original application papers.

A review of the record reveals that on 29 September, 2003, the instant application was filed, with the transmittal letter stating all correspondence should be sent to the current address of 600 New Hampshire Avenue, NW, Washington, DC 20037. A declaration under 37 CFR 1.63 was additionally filed, containing the prior address.

On 24 October, 2005, an Office action was mailed to the old address. The Office action was returned as undeliverable on 6 December, 2005.

As such, the showing of record is that there was an irregularity in the mailing of the Office action mailed on 24 October, 2005, in that said Office communication was not mailed to the proper address.

The Office apologizes for any inconvenience to petitioner.

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

The petition to revive the application is dismissed as moot. The petition fee will be refunded.

As petitioner has filed a response to the Office action mailed on 24 October, 2005, with the present petition, remailing of the Office action is unnecessary. Rather, the response filed with the petition is being treated as timely filed.

The application is being referred to Technology Center Art Unit 1761 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

29 JUN 2004

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

In re Application of	:	
BLOM et al.	:	
Application No.:10/473,182	:	
PCT Application No.: PCT/SE02/00582	:	DECISION ON
International Filing Date: 22 March 2002	:	
Priority Date: 22 March 2001	:	PETITION
Attorney Docket No.: P14477-US1	:	
For: A TO-CAN HAVING A LEADFRAME	:	UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," (petition for revival) filed in the United States Patent and Trademark Office (PTO) on 25 September 2003 is **GRANTED**.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/SE02/00582. The international application claims a priority date of 22 March 2001 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 03 October 2002. The submission of the basic national fee in order to avoid abandonment was thirty months from the priority date, that is 22 September 2003. Applicants missed this deadline.

On 25 September 2003, applicant filed the petition for revival accompanied by, *inter alia*, an unsigned declaration of the inventor and a copy of the international application. The basic national fee and the petition fee were authorized to be charged from Applicants' Deposit Account 50-1379.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to item (2), 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). With regard to items (1) and (3), applicants have authorized the basic national fee and the petition fee to be charged to Counsel's Deposit Account. With regard to item (4), a terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that a signed oath or declaration of the inventors and the surcharge set forth in 37 CFR 1.492(e) are due.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
Detailee
PCT Legal Administration

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#9

Ronald Eisenstein
Nixon Peabody LLP
101 Federal Street
Boston, MA 02110

In re Application of
LU, Yichen et al.
Application No.: 10/473,190
PCT No.: PCT/US02/09680
Int. Filing Date: 28 March 2002
Priority Date: 28 March 2001
Attorney Docket No.: 002806-054510
For: METHODS OF DELIVERY OF EXOGENOUS PROTEINS TO THE CYTOSOL AND USES THEREOF

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition to Withdraw Abandonment," filed by facsimile on 09 February 2005. No petition fee is due.

BACKGROUND

On 28 March 2002, applicant filed international application PCT/US02/09680, claiming a priority date of 28 March 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, 28 September 2003.

On 25 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 02 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 06 December 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely respond to the Notification of Missing Requirements.

On 11 February 2005, applicant filed the instant petition, accompanied by a declaration and postcard receipt.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by serial number and docket number, stamped 17 February 2004 and listing a declaration. This is adequate evidence that the listed item was received by the Office on 17 February 2004. Applicant indicates that the enclosed declaration is a true copy of the 17 February 2004 submission and the statement is signed by someone registered to practice before the Office. The declaration is accepted as having been received on 17 February 2004.

The declaration submitted on 17 February 2004 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 06 December 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 17 February 2004.

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
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/473,194	03/24/2004	Akira Kurozuka	MTS-3439US

CONFIRMATION NO.
4779

RatnerPrestia
One Westlakes Berwyn Suite 301
PO Box 980
Valley Forge PA 19482-0980

Date Mailed: July 21, 2004

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on July 2, 2004, for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ■ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. □ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. □ The Application was published on October 30, 2003, in compliance with 35 U.S.C. 122(b), the publication number is US20030204756A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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WASHINGTON, D.C. 20231
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4/25/05

In re Application of :
SCHRODER et al. : DECISION ON
Application No. 10/473,211 : PETITION
Filing date: 09/29/03 :

This is in response to the petition to restart or reset the period of reply to the Office action, filed on March 28, 2005.

The petition is granted.

The period for reply to the prior Office action dated 02/08/2005 is reset to run from March 23,2005 the date that applicant received the delayed correspondence.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-1316.

Yogendra N. Gupta
Supervisory patent Examiner
Art unit 1751/Technology Center 1700

1300 Eye Street, N.W.
Suit 400 East
Washington, D.C. 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/473,223	03/05/2004	Dirk- Olaf Leimann	9031-1014	1843

466 7590 04/29/2008

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

EXAMINER	
CHARLES, MARCUS	
ART UNIT	**PAPER NUMBER**
3682	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

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

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

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FROM DIRECTORS OFFICE

APR 29 2008

TECHNOLOGY CENTER 3600

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

In re Application of
Dirk-Olaf LEIMANN
Application No. 10/473,223
Filed: March 5, 2004
For: **ROLLER BEARING ASSEMBLY**

DECISION ON PETITION TO ENTER REPLY BRIEF UNDER 37 CFR 1.181

This is a decision on Applicant's Petition under 37 CFR 1.181, filed on January 12, 2007, to have the Reply Brief filed October 2, 2006 entered.

The Petition is **DISMISSED as MOOT**.

A review of the file record reveals that the petition was treated in the April 20, 2007 communication from examiner.

The case has gone before the Board of Patent Appeals and Interferences and is currently before the examiner for further action.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Richard Ridley at 571-272-6917.

Kathy Matecki, Director
Technology Center 3600
(572) 272-5250

TR

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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OCT 24 2007

OFFICE OF PETITIONS

In re Application of :
Staffan Engstrom :
Application No. 10/473,224 : DECISION ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. 1505-1035 :

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

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely pay the issue and publication fees on or before January 19, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2004. Accordingly, the application became abandoned on January 20, 2005.

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

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

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

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

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

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

As to Period (1):

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

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

years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 20, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Young & Thompson was counsel of record at the time of abandonment, Young & Thompson should explain why this application became abandoned while it was under their control and what efforts Young & Thompson made to further reply of itself and with whom this matter was discussed outside of Young & Thompson. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Young & Thompson and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Young & Thompson, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in

seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

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

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Director for Patents
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YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Staffan Engstrom :
Application No. 10/473,224 : ON PETITION
Filed: September 29, 2003 :
Attorney Docket No. 1505-1035 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 27, 2008, to revive the above-identified application.

The petition is denied.

BACKGROUND

The application became abandoned for failure s to timely pay the issue and publication fees on or before January 19, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 20, 2005.

STATUTE AND REGULATION

35 USC 2(b)(2) provides, in part, that:

> The Office. . .may establish regulations, not inconsistent with law, which

(A) shall govern the conduct of proceedings in the Office;

Public Law 97-247, 3, 96 Stat. 317 (1982), which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." Specifically, 35 U.S.C. 41(a)(7) provides that the Director shall charge:

On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in any reexamination proceeding, $1,500, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $500.

37 CFR 1.137(b)[1] provides:

Unintentional. Where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to this paragraph. A grantable petition pursuant to this paragraph 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; Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(III)(C) and (D); and
(4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

OPINION

Petitioner has not met his burden of proof to establish to the satisfaction of the Director that the entire delay in prosecution was herein unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b).

---

[1] As amendment effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

35 U.S.C. 41(a)(7) applies to the situation of the above-identified application (i.e., to the revival of an abandoned application), however, it precludes the Director from reviving the above-identified application. The patent statute at 35 U.S.C. 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 67 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional, the petition must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). The language of both 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. However, as noted in more detail infra, both the delay herein in filing a reply during prosecution, and in filing the petition after abandonment, are inconsistent with a filing that the entire delay herein was unintentional, such that revival is warranted.

The showing of record is that applicant deliberately withheld a reply to the Notice of Allowance and Fee(s) Due, mailed October 19, 2004. Thus, the applicant intended that no reply be filed, and this application became abandoned as a result of that deliberate intent.

In this case U.S. counsel, Young and Thompson, was retained by Dr. Ludwig Brann Patentbyra AB, a Swedish intellectual properly law firm, for it's Swedish client, Nordic Windpower AB. On January 19, 2005 Ludwig Brann Patentbyra AB instructed Young and Thompson not to pay the issue fee in response to the Notice of Allowance mailed October 19, 2004. As noted in the evidence provided, the decision to not pay the issue fee was interpreted by Ludwig Brann Patentbyra AB based on Nordic Windpower AB's conduct after several reminders for instructions regarding payment of the issue fee. Petitioner now argues that the delay should be considered unintentional since no affirmative instruction was actually given to Ludwig Brann Patentbyra AB not the pay the issue fee.

Applicant is bound by the consequences of the actions or inactions of his duly authorized and voluntarily chosen representative. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Houston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). After permitting the application to become abandoned, Ludwig Brann Patentbyra AB further instructed Young and Thompson to "close the case and send us your final debit note."

The relevant inquiry in determining whether a delay is intentional is whether the course of action resulting in the delay was, as here, deliberate. See In re Maldague, 10 USPQ2d 1477 (Comm'r Pat. 1988); In re Application of G, 11 USPQ2d 1378 (Comm'r Pat. 1989); Lawman Armor v. Simon, 2005 U.S. Dist. Lexis 10843, 74 USQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005). A deliberate decision, as here, not to pay the issue fee warrants the conclusion that the abandonment of this application was not unintentional. See, 2005 U.S. Dist. Lexis 10843, 74 USQ2d 1633 (DC EMich 2005). Here, since the delay results from a deliberate cause of action (or inaction), it cannot be considered unintentional delay. Maldague, supra; G, supra; Lawman, supra; Field Hybrids, supra.

Moreover, an intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken, and now seeks, on petition to remit the deliberately withheld reply. Maldague, at 1478; Lawman, 73 USPQ2d at 1637-38; Lumenyte Int'l Corp. v. Cable Lite Corp., 1996 U.S. App. LEXlS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished). This is so even if the prior decision not to continue prosecution arose from a good faith error, that is subsequently discovered. Maldague, supra. Rather, the subsequent discovery of a reason(s) to continue prosecution is simply a change in circumstance that does not change

the resultant delay into unintentional delay. Id. This conclusion is reinforced in this instance by the protracted delay between the January 20, 2005, date of abandonment and the filing of the first petition and reply more than two years later. As noted in MPEP 711.03(c)II subsection (c)(1):

> An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

Under the unintentional delay standard, it is well-established that if the abandonment of an application is considered to be a deliberately chosen course of action, the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. See Application of G, 11 USPQ2d at 1380. Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). Moreover, an intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

> (A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;
>
> (B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or
>
> (C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

The intentional abandonment of an application precludes revival under 37 CFR 1.137(a) or (b). In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

DECISION

For the reasons given above, petitioner has not demonstrated to the satisfaction of the Director that the entire delay herein was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR

1.137(b). Accordingly, this abandoned application will not be revived.

This decision may be viewed as a final agency action within the meaning of 5 USC 704 for purposes of seeking judicial review. See MPEP 1002.02. The provisions of 37 CFR 1.137(d) no longer apply to this case.

Telephone inquiries regarding this decision should be directed to Sherry Brinkley at (571) 272-3204.

Anthony Knight
Director, Office of Petitions
Office of the Associate Commissioner
For Patent Examination Policy

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#7

Stephen A. Bent
Foley & Lardner, LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

In re Application of :
MACHIDA, et al. :
Application No.: 10/473,247 : DECISION ON PETITION
Filing Date: 29 September 2003 :
Attorney Docket No.: 081356-0202 : UNDER 37 CFR 1.181
For: METHOD OF DETECTING THE :
EXPRESSION OF ASPERGILLUS GENE :

This decision is in response to applicant's "Petition For Revival of Application For Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 18 January 2005 in the United States Patent and Trademark Office (USPTO). The filing is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application. No petition fee is due.

BACKGROUND

On 22 March 2002, applicant filed international application PCT/IB02/00890, which claimed priority of an earlier application filed 30 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 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, 30 September 2003.

On 29 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an Information Disclosure Statement and a First preliminary amendment.

On 16 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 a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was informed of the need to provide a copy of the sequence listing in computer readable form. Applicant was given two months to respond and Applicant was provided two months to file the proper response and advised that this time could be extended

pursuant to 37 CFR 1.136(a).

On 24 November 2004, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 16 January 2004 within the time period set therein.

On 18 January 2004, applicant responded with the present petition.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, application number and docket number. Among the items listed on the receipt is "Combined Declaration and Power of Attorney (5 pgs.)" and "Computer Readable Format of sequence in CD-R format (CRF)." The receipt is stamped "OIPE Patent and Trademark Office APR 16 2004." Thus, it is clear that applicant filed an executed combined declaration and power of attorney, as well as CRF of the sequence listing, on 16 April 2002. In addition, applicant has certified that the copies provided are true and accurate copies of what was originally filed 16 April 2004. As such, it is proper to grant applicant's petition at this time and accept the copy of the combined declaration and power of attorney filed 18 January 2005 as a substitute for the combined declaration and power of attorney originally filed 16 April 2004.

Regarding the filed declaration, it is noted that the tenth listed inventor is identified as Keietu ABE in the filed declaration whereas the published international application list the inventor as Keietsu ABE. Section 201.03 of the Manual of Patent Examining Procedure (MPEP) provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required: "Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." Therefore, the assigning of a 35 U.S.C. 371 date will be held in abeyance until applicant has clarified the proper name of inventor ABE.

It is noted that while applicant has provided sufficient proof that a CD-R of the sequence listing was filed on 16 April 2004, a copy was not provided with the present filing. Therefore a new "Notification of Missing Requirements" will be generated as to this matter.

CONCLUSION

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

Applicant is advised to file a statement as to the tenth listed inventor's name as discussed above.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 24 January 2004 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision. Specifically, the preparation and mailing of a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) noting that a CRF of the sequence is required.

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

29 MAR 2007

#15

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Alexandria, VA 22313-1450
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Stephen A. Bent
Foley & Lardner, LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

In re Application of	:	
MACHIDA, et al.	:	
Application No.: 10/473,247	:	DECISION ON PETITION
PCT No.: PCT/IB02/00890	:	
Int. Filing Date: 22 March 2002	:	UNDER 37 CFR 1.181
Priority Date: 30 March 2001	:	
Attorney Docket No.: 081356-0202	:	
For: METHOD OF DETECTING THE EXPRESSION OF ASPERGILLUS GENE	:	

This decision is in response to applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment filed 20 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 November 2006, applicant was mailed a communication indicating that a response to the Form PCT/DO/EO/905 mailed 11 March 2005 was never received and the application remained abandoned in the National stage of the United States of America.

On 20 February 2007, applicant filed the present petition accompanied by a copy of a petition filed 26 September 2006. A review of the application file finds the original petition under 37 CFR 1.181 contained therein. It appears that the petition had not been processed and matched to the application file prior to the mailing of the 02 November 2006 communication. The petition is considered herein.

DISCUSSION

Applicant's petition includes a legible copy of a receipt postcard which shows a USPTO date stamp, "OIPE JC98 Patent & Trademark Office MAY 03 2005" and clearly identifies in part: "Sequence Listing in CD-R Format (Copy 1 and 2)" as well as listing the applicant, serial number and attorney docket number. The evidence is sufficient to establish that the response was received in the USPTO on 03 May 2005 and was thus a timely response to the Form PCT/DO/EO/905 mailed 11 March 2005. Applicant has certified that the presently filed copy of the declaration is a true and complete copy of the papers originally filed on 03 May 2005. Further, a review of the application file finds that the USPTO Scientific and Technical Information

Center has processed the electronic version of the sequence listing and has not detected any errors. As such, the response, in addition to being timely, is also proper.

Applicant has presently provided a statement as to the proper spelling of the tenth inventor, Keietu ABE and detailed that a typographical error occurred in the published international application.

An examination of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 16 April 2004. As such, it is proper to **GRANT** applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**. Applicant's $400.00 petition fee will be refunded as requested.

The application has an international filing date of 22 March 2002 under 35 U.S.C. 363 and will be given a date of **16 April 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The Form PCT/DO/EO/909 mailed 18 September 2006 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

Derek A. Putonen
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OFFICE OF PETITIONS

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

In re Application of
Frank MADEMANN
Application No. 10/473,257
Filed: September 29, 2003
Attorney Docket No. 449122063800

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 21, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP has been revoked by the assignee of the entire interest of the patent application on August 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO, IL 60690

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MUETING, RAASCH & GEBHARDT, PA
P O BOX 581415
MINNEAPOLIS, MN 55458

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OFFICE OF PETITIONS

In re Application of	:	
Joachim Zech et al	:	
Application No. 10/473,282	:	DECISION GRANTING PETITION
Filed: September 29, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 400.00080101	:	

This is a decision on the petition, filed September 15, 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 August 31, 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 1712 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\Sept9\473282.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

24 MAR 2004
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Pauley Peterson & Erickson
2800 West Higgins Road
Suite 365
Hoffman Estates, IL 60195

In re Application of
SCHAFFER, Kurt-Michael, et al.
Application No.: 10/473,290
PCT No.: PCT/EP02/03245
Int. Filing Date: 22 March 2002
Priority Date: 28 March 2001
Attorney Docket No.: VO-649
For: ELECTRIC CONTACT ASSEMBLY

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to "Request For Withdrawal of Notification of Missing Requirements," filed on 09 March 2004. No petition fee is due.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/03245. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 October 2002. A demand for international preliminary examination was filed on 21 August 2002 within nineteen months of the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 29 September 2003 (28 September 2003 was a Sunday).

On 26 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, a declaration and a translation.

On 23 January 2004, the Office mailed NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 09 March 2004, applicants filed the instant petition accompanied by a copy of the paperwork filed 26 September 2003 and a copy of a postcard receipt.

DISCUSSION

The 26 September 2003 paperwork is located in the file. As such, the request to accept the copies of the paperwork as having been received on 26 September 2003 is moot and the Notification of Missing Requirements mailed 23 January 2004 issued in error.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED AS MOOT** in part and **GRANTED**, in part.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 23 January 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 26 September 2003.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

06 FEB 2004

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BRADLEY P. WILLIAMS
BAKER BOTTS, LLP
2001 ROSS AVENUE
DALLAS, TX 75201-2980

In re Application of SEVICK-MURACA et al. Application No.: 10/473,303 PCT No.: PCT/US99/23709 Int. Filing Date: 08 October 1999 Priority Date: 09 October 1998 Attorney's Docket No.: 017575.0696 For: CHARACTERIZATION OF LUMINESCENCE IN A SCATTERING MEDIUM	DECISION ON PETITION UNDER 37 CFR 1.181 & 37 CFR 1.137(b)

This decision is in response to applicant's request to accept a copy of the U.S. national stage application for international application PCT/US99/23709 in lieu of the original application filed United States Patent and Trademark Office (USPTO) on 13 June 2002 and treated as a petition under 37 CFR 1.181. No petition fee is required. Applicant also submits a copy of his "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" originally filed in the USPTO on 13 June 2002

02/10/2004 SNAJARRO 00000006 020384 10473303

01 FC:2453 640.00 DA

BACKGROUND

On 08 October 1999, applicant filed the above-identified international application which claimed a priority date of 09 October 1998. On 09 May 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for entry into the national stage in the U.S. was extended to expire 30 months from the priority date, i.e. 01 April 2001.

On 13 June 2002, applicant filed the U.S. national stage application for international application PCT/US99/23709. These papers were not assigned a U.S. serial number. Upon inquiry to the USPTO regarding the status of the national application, counsel was advised that the application papers could not be located.

On 27 May 2003 and again on 20 October 2003, applicant attempted to refile copies of the national stage application as filed 13 June 2002, accompanied by a copy of the itemized postcard receipt with USPTO date-stamp 13 June 2002. The post card receipt indicated receipt of, *inter alia*, a copy of the international application and declaration of the inventors

On 04 February 2004, applicant refiled, via facsimile to the PCT Legal Office, a copy of the national stage application papers originally filed in the USPTO on 13 June 2002, including "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)".

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that a transmittal letter concerning filing under 35 U.S.C. 371, a copy of the international application PCT/US99/23709 (comprising 48 sheets), a declaration and "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)", along with other documents, were deposited with the USPTO on 13 June 2002.

The evidence submitted is sufficient to establish that this application was received in the USPTO on 13 June 2002. Accordingly, it is appropriate to accept the copy of the application as a replacement for the missing original application with a deposit date of 13 June 2002.

A review of the declaration reveals that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed 13 June 2002 in the above-captioned application is hereby granted as follows:

Applicant's statement that the "entire delay in entering the U.S. national stage until the filing of this grantable petition pursuant to 37 CFR 1.137(b) was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $355 has been paid. The required petition fee of $640 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

The petition under 37 CFR 1.181 to reconstruct the file is **GRANTED**. Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" is **GRANTED**.

The copy of the declaration originally submitted on 13 June 2002 and resubmitted on 04 February 2004 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) date is **13 June 2002.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office PCT Legal Administration

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

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Date Mailed : 04/30/09

Patent No. : 7394853 B2
Patent Issued : 07/01/08
Docket No. : **2003_1326A**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 09/29/08; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/11/09

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10473322 Patent No.: 7394853 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The examiner called the attorney for further clarification with regard to any errors made by the Office. It is informed that the information as indicated on the front page, column 1, line 14 (806 days) is correct, and therefore no correction is required.

SPE AU 2621
Mehrdad Dastouri 2/26/09

23 JAN 2005

#6

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Wenderoth, Lind & Ponack, L.L.P.
2033 "K" Street N.W., Suite 800
Washington, DC 20006-1021

In re Application of	:	
Kitamori et al.	:	
Application No.: 10/473,336	:	
PCT No.: PCT/JP01/08561	:	
Int. Filing Date: 28 September 2001	:	DECISION
Priority Date: 29 March 2001	:	
Attorney Docket No.: 2003-1381A	:	
For: Microchip Pileup Type	:	
Chemical Reaction System	:	

This is a decision on the "Request For Withdrawal Of Notification Of Abandonment" filed on 02 November 2004.

BACKGROUND

This international application was filed on 28 September 2001 and claimed a priority date of 29 March 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 10 October 2002. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 29 September 2003. On 29 September 2003, applicants filed *inter alia* the basic national fee.

On 16 January 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 $130.00 surcharge under 37 CFR 1.492(e).

On 13 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed on 16 January 2004.

DISCUSSION

Applicants "request that the Notification of Abandonment be withdrawn" because counsel allegedly filed a response to the Notification of Missing Requirements on 12 February 2004. The instant petition is accompanied by copies of a "Patent Office Fee Transmittal Form," a "Reply To Notification Of Missing Requirements...," an executed declaration of the inventors," and a copy of a return postcard receipt itemizing these papers and stamped as received by "OIPE" on "FEB 12 2004." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed

serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the copies of the papers enumerated above are being accepted as copies of the papers originally filed on 12 February 2004. The return postcard receipt also itemizes a check for $130.00, but counsel has not provided a copy of such a check, and the electronic records of the USPTO do not appear to include any record of funds corresponding to such a check. Therefore, the $130.00 surcharge under 37 CFR 1.492(e) is being charged to counsel's deposit account no. 23-0975, as authorized by the "Patent Office Fee Transmittal Form." As such, it would be appropriate to conclude that applicants timely replied to the Notification of Missing Requirements mailed on 16 January 2004. Accordingly, the Notification of Abandonment mailed on 13 October 2004 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

The $130.00 surcharge under 37 CFR 1.492(e) is being charged to counsel's Deposit Account No. 23-0975, as authorized by the "Patent Office Fee Transmittal Form."

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 **12 February 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

15 NOV 2004

#9

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OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, PC
1940 Duke Street
Alexandria, VA 22314

In re Application of
MARDER, Seth *et al*
U.S. Application No.: 10/473,365
PCT No.: PCT/US02/08227
Int. Filing Date: 01 April 2002
Priority Date: 30 March 2001
Attorney Docket No.: 2208035US20PCT
For: MATERIALS, METHODS, AND USES FOR PHOTOCHEMICAL GENERATION OF ACIDS . . .

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47" filed on 13 September 2004. The $130.00 fee has been charged to Deposit Account No. 15-0030 as authorized.

BACKGROUND

On 13 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 an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and computer readable sequence listing must be provided. Applicants were given two months to respond.

On 13 September 2004, applicants submitted a response which was accompanied by, *inter alia*, the instant petition; a five-month extension and $1,005.00 fee; a declaration signed by four of the five listed co-inventors; a "Response to the Notice Requiring a Sequence Listing"; a summary of actions taken to contact the nonsigning joint inventor; copies of emails; and authorization to charge any additional fee as required to Deposit Account No. 15-0030.

On 19 October 2004, applicants submitted a "Request for Withdrawal of Petition Under 37 C.F.R. §1.47" which was accompanied by a declaration signed by all five joint inventors.

DISCUSSION

Applicants filed a response on 13 September 2004 which consisted of a petition under 37 CFR 1.47(a) and a declaration signed by four of the five named inventors. Petitioners also included a "Response to the Notice Requiring a Sequence Listing" which "points out that there are no amino acid or nucleotide sequences present in the

application." This is a sufficient response to the request for a computer readable sequence listing in the Form PCT/DO/EO/905.

In the papers filed 19 October 2004, applicants state that Mr. Zhou has been located and submitted another declaration signed by all of the joint inventors including Mr. Zhou. Thus, the petition pursuant to 37 CFR 1.47(a) filed 13 September 2004 is not required.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

A review of the declaration filed 13 September 2004 and the declaration filed 19 October 2004 show that applicants submitted only a partial declaration. The declaration filed 13 September 2004 consists of one Page 1 of 3, one Page 2 of 3 and three Page 3 of 3. The declaration filed 19 October 2004 consists of one Page 1 of 3, one Page 2 of 3 and four Page 3 of 3. of one Page 1, one Page 2, one Page 4 and two Page 3's. Applicants must submit a complete copy of each declaration signed by all of the joint inventors for the declaration to comply with 37 CFR 1.497(a) and (b).

Applicants must provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within **ONE MONTH** of the date of mailing of this decision since no time remains on the Notification of Missing Requirements mailed 13 February 2004. Failure to submit the required reply will result in the **ABANDONMENT** of this application. No extensions of time are available.

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

29 JAN 2004

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#4

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Joseph V. Coppola
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39533 Woodward Avenue
Suite 140
Bloomfield Hills, Michaigan 48304

In re Application of: NELL, Joachim, et al.	:	
U.S. Application No.: 10/473,374	:	
PCT No.: PCT/EP02/03537	:	DECISION ON PAPERS
International Filing Date: 28 March 2002	:	SUBMITTED UNDER
Priority Date: 28 March 2001	:	37 CFR 1.42
Attorney's Docket No.: AP10101	:	
For: DRIVE DEVICE OF A MOTOR VEHICLE	:	
AXLE STEERING MODULE ...	:	

This decision is issued in response to the 26 September 2003 submission of a declaration executed on behalf of deceased inventor Burhard FISCHBACH by joint heirs Walter FISCHBACH and Erika FISCHBACH, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 26 September 2003, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and a declaration executed by the eight surviving inventors and on behalf of deceased inventor Burhard FISCHBACH by joint heirs Walter FISCHBACH and Erika FISCHBACH.

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."

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration submitted on 26 September 2003 identifies the deceased inventor and states the inventor's country of citizenship and residence, as required for compliance with 37 CFR 1.497(a)(3). The declaration is signed by the "two of two joint heirs" of the deceased inventor's estate, states the heirs relationship to the deceased (i.e., heirs), and provides the heirs' country of citizenship and residency. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2).

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.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The declaration filed on 26 May 2003 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 35 U.S.C. 371 date is 26 September 2003.

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

11 JAN 2005

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#7

Ronald P. Kananen
Rader Fishman & Grauer, PLLC
1233 20th Street, NW, Suite 501
Washington, DC 20036

In re Application of
ABE, et al.
Application No.: 10/473,417
PUT No.: PCT/JP01/10471
Int. Filing Date: 30 November 2001
Priority Date: None
Attorney Docket No.: SON-2862/SOH
For: DEMODULATOR AND RECEIVER USING IT

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to the applicant's "Response to Notification of Defective Response" filed 02 August 2004 in the United States Patent and Trademark Office (USPTO). The paper is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 30 November 2001, applicant filed international application PCT/JP01/10471. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2004. On 30 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) and an English translation of the international application.

On 13 February 2004, 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. In addition, applicant was advised to provide clarification as to the number of claims as the published international application listed 185 claims whereas the filed English translation listed 186 claims. 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 09 March 2004, applicant filed a response including a declaration and a statement that the published international application incorrectly listed two claims numbered "153" and that the claims had been renumbered in the English translation filed in the National stage in the United States.

On 02 July 2004, applicant was mailed a "Notification of Defective Response" (Form

PCT/DO/EO/916) indicating that the duplicate claim 153's contained different claims and therefore the originally filed translation was defective. Applicant was afforded one month to file a proper response including payment of the $130.00 processing fee for providing a compliant English translation later than thirty months from the priority date.

On 02 August 2004, applicant filed the present response including a copy of the published international application and an English translation matching the published international application, specifically, listing two claims numbered 153.

DISCUSSION

Applicant seeks withdrawal of the Form PCT/DO/EO/905 mailed 13 February 2004 and Form PCT/DO/EO/916 mailed 02 July 2004.

The Form PCT/DO/EO/905 mailed 13 February 2004, advised applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required and sought clarification as to discrepancy in the number of claims between the published international application and the filed English translation. As such, mailing of the notification was proper.

Regarding the Form PCT/DO/EO/916 mailed 02 July 2004, a review of the application file finds that the English translation filed 30 September 2003 was valid for the purposes of 35 U.S.C. 371, however, the Notification was correct as a literal translation is needed for the National stage application. The translation filed 02 August 2004 will be used to form the basis of the U.S. National stage application. Applicant will not be charged the $130.00 processing fee.

A review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 30 November 2001 under 35 U.S.C. 363 and will be given a date of **09 March 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Applicant is advised to file an amendment pursuant to 37 CFR 1.121 to fix the claims numbering.

CONCLUSION

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

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

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

REQUEST FOR LEGAL STAFF CONSIDERATION

Date sent to Legal Department: 12/16/04

Serial Number: 10/473,417

Request

___ Petition to Revive Unintentionally Abandonment Application

___ Petition under Rule 1.47 (A)

✓ Other

* See paper #6 dated 8/2/04 regarding translation of original application. Should late translation fee be charged? or was original translation proper?

Requestor: Barbara Campbell, Paralegal PCT National Stage Division
Supervisor: Donna Greene

Action taken:

NOTICES WERE PROPER - HOWEVER NO NEED TO CHARGE TAG PROCESSING FEE. 371 DATE IS DATE OEC WAS FILED 3/9/04. PLEASE PREPARE & MAIL 903

Date returned: 1/11/05

RECEIVED
17 DEC 2004
Legal Staff
International Division

11 JAN 2005

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Ronald P. Kananen
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In re Application of
ABE, et al.
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PUT No.: PCT/JP01/10471
Int. Filing Date: 30 November 2001
Priority Date: None
Attorney Docket No.: SON-2862/SOH
For: DEMODULATOR AND RECEIVER USING IT

DECISION ON PETITION

UNDER 37 CFR 1.181

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Applicant is advised to file an amendment pursuant to 37 CFR 1.121 to fix the claims numbering.

CONCLUSION

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

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

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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/473,417	03/09/2004	Masayoshi Abe	SON-2862/SOH	4011

7590 02/27/2008

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
CRUTCHFIELD, CHRISTOPHER M	

ART UNIT	PAPER NUMBER
4144	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

L Fletcher
Patent Publication Branch
Office of Data Management

Adjustment date: 02/29/2008 KKING1
06/28/2006 FFANAIA2 00000001 11473417
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP
05 FC:1202 -200.00 OP

Repln. Ref: 02/29/2008 KKING1 0016121000
DA#:180013 Name/Number:10473417
FC: 9204 $900.00 CR

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OFFICE OF PETITIONS

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Patent No. 6,950,236 :
Issue Date: September 27, 2005 :
Application No. 10/473,420 : DECISION ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. 019519-402 :

This is a decision on the petition under 37 CFR 1.182, filed August 14, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The fee required for a petition under 37 CFR 1.182, including petition for duplicate letters patent, is currently $400.00 and not subject waiver. As petitioner has submitted $130.00, the remaining $270.00 has been charged to petitioner's deposit account, as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

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

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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DEC 26 2007

OFFICE OF PETITIONS

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON DC 20037

In re Application of :
Fesquet, et al. :
Application No. 10/473,430 : DECISION ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. Q77592 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 30, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file an Appeal Brief. Applicant filed a Notice of Appeal on March 15, 2007, together with a Pre-Appeal Brief Request for Review. Subsequently, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review on April 2, 2007. This Notice notified applicants that the appeal was proceeding to the Board of Patent Appeals and Interferences, and set the time period for filing an Appeal Brief to one month from the mailing date of the Notice, or the balance of the two month time period running from the Notice of Appeal, whichever is greater. Extensions of time under 37 CFR 1.136(a) were still available.

Applicants filed an Appeal Brief on October 15, 2007, made timely by obtaining a five month extension of time. The Office mailed a Notice of Abandonment on November 15, 2007.

In view of the timely filed Appeal Brief, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 3653 for consideration of the Appeal Brief, filed October 15, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVE, 10th FLOOR
NEW YORK, NY 10017

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FEB 0 1 2007

OFFICE OF PETITIONS

In re Patent of :
Anton, et al. :
Patent No. 6,942,011 :
Issue Date: September 13, 2005 : Decision on Petition
Application No. 10/473,437 :
Filing Date: April 1, 2004 :
Attorney Docket No. DT-6605 :

This is a decision on the petition under 37 CFR 1.183, filed November 23, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 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 met the requirements set forth above. Therefore, the request is granted.

Because petitioner captioned the petition under 37 CFR 1.183, petitioner's deposit account was charged the $270.00 balance due on the $400.00 Rule 183 petition fee. Only a $130.00 fee is required. Petitioner's deposit account will be credited $270.00.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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Merck & Company Inc
126 East Lincoln Avenue
Rahway, NJ 07065

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JAN 09 2007

OFFICE OF PETITIONS

In re Patent of Colarusso et al. :
Patent No. 7,119,073 :
Issue Date: October 10, 2006 : Letter Regarding
Application No. 10/473,443 : Patent Term Adjustment
Filing Date: March 3, 2004 :
Attorney Docket No. ITT0023P :

This is a decision in response to "Letter Concerning Patent Term Adjustment" filed October 11, 2006. Pursuant to patentee's duty of good faith and candor to the Office, patentees request confirmation of the issuance of a patent term adjustment of 47 days.

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

Any response to this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. Any response should include a cover letter entitled "Request for Reconsideration of Patent Term Adjustment."

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of zero (**0**) days.

On October 10, 2006, the application matured into U.S. Patent No. 7,119,073, with a revised patent term adjustment of 47 days. On October 11, 2006, patentees timely submitted this request for confirmation of the patent term adjustment.

The period term adjustment on the patent was calculated as follows:

> The PTA determination was reduced 3 days pursuant to 37 CFR 1.704(b) and increased 50 days pursuant to 37 CFR 1.703(a)(6).

Patentees note the Patent Term Adjustment History from Public Pair fails to list the filing of a request under 37 CFR 1.48 on January 6, 2006. However, patentees state that the inclusion of the 1.48 request would not have changed the PTA determination, because the submission did not constitute a failure to engage in reasonable efforts to conclude prosecution.

A reply to a non-final Office action was filed October 31, 2005.

The request under 37 CFR 1.48 was filed January 6, 2006.

The record fails to indicate the request under 37 CFR 1.48 was expressly requested by the examiner.

A Notice of Allowance was mailed January 23, 2006.

37 CFR 1.704(c)(8) states circumstances constituting a failure of the applicant to engage in reasonable efforts to conclude processing or examination includes the:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Pursuant to 37 CFR 1.704(c)(8), patentees should have been assessed 67 days of delay for the period from November 1, 2005 (the date after the amendment was filed) to January 6, 2006 (the date the request under 37 CFR 1.48 was filed).

In view thereof, the patent should have issued with a Patent Term Adjustment of zero (0) days (50 days of PTO delay, reduced by 70 (67+3) days of Applicant delay).

To the extent that this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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

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

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

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. The

certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by 0 days subject to any disclaimers.

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

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 NO. : 7,119,073 B2

APPLICATION NO.: 10/473,443

ISSUE DATE : October 10, 2006

INVENTOR(S) : Colarusso et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 47 days

Delete the phrase "by 47 days" and insert --by 0 days--

16 SEP 2004

#7

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INCYTE CORPORATION
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	DECISION ON
Gandhi et al	:	
PCT No.: PCT/US02/10812	:	
Application No: 10/473,451	:	
Int. Filing Date: 05 April 2002	:	PETITION UNDER
Priority Date: 05 April 2001	:	
Attorney's Docket No.: PI-0397-USN	:	
For: PROTEIN MODIFICATION AND	:	
MAINTENANCE MOLECULES	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a) REGARDING MADHUSUSAN SANJANWALA" filed on 29 June 2004. The petition fee of 130.00 has been paid by check.

BACKGROUND

On 05 April 2002, petitioner filed international application PCT/US02/10812, which claimed priority to an earlier application filed 05 April 2001.

On 30 September 2003, petitioners 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 declaration or oath accompanied the above papers.

On 01 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date." The notice set a response that must be submitted within two months from the date of this notice or by 32 months from the priority date for the application, in order to avoid abandonment of the national stage application.

On 29 June 2004, petitioner filed, *inter alia*, the present petition in support of filing an executed Declaration without the signature of Madhusudan Sanjanwala.

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), (3) and (4) under 37 CFR 1.47(a).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the declarations by Ekstrom, Stofer, and Ramos are sufficient to support a finding that the nonsigning inventor, Mr. Sanjanwala refuses to sign because a copy of the patent application papers including a Declaration which was mailed to Mr. Sanjanwala for his execution on July 02, 2003 and October 17, 2003 and to this date he has not responded. Petitioner has provided a copy of the cover letter and the registered mail return receipt confirming that package was received. In addition, the evidence provided states that there were various telephone discussions with Mr. Sanjanwala about the above application with respect that he sign the declaration.

Accordingly, the steps enumerated in the declarations are sufficient to establish that the Mr. Sanjanwala has refused to sign the declaration.

Regarding requirement 3, petitioner has provided a statement of the last known address of the missing inventor, Mr. Sanjanwala.

Regarding requirement 4, petitioner has provided an executed declaration signed by Ameena R. Gandhi, Angelo M. Delegeane, Anita Swarnakar, April J.A. Hafalia, Brendan M. Duggan, Bridget A. Warren, Brooke M Emerling, Chandra S Arvizu, Cynthia D. Honchell, Deborah A Kallick, Dyung Aina M. Lu, Ernestine A. Lee, Henry Yue, Ian J Forsythe, Jayalaxmi Ramkumar, Jennifer A. Griffin, Joana S. Li, Kavitha Thangavelu, Mariah R Baughn, Monique G. Yao, Narinder K. Chawla, Neil Burford, Preeti G. Lal, Shanya D. Becha, Soo Yeun Lee, Vicki S. Elliot, Wen Luo, Yan Lu, and Yu-mei Wang on their behalf and on the behalf of the nonsigning joint inventor Mr. Sanjanwala.

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**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **29 June 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.

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: (703) 308-6312
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

16 SEP 2004

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Madhusudan M. Sanjanwala
210 Silvia Court, Los Altos
California 94024

In re Application of
Gandhi et al
PCT No.: PCT/US02/10812
Application No: 10/473,451
Int. Filing Date: 05 April 2002
Priority Date: 05 April 2001
Attorney's Docket No.: PI-0397-USN
For: PROTEIN MODIFICATION AND MAINTENANCE MOLECULES

Dear Mr. Sanjanwala:

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
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INCYTE CORPORATION
3160 Porter Drive
Palo Alto, CA 94304

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GIFFORD KRASS SPRINKLE
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

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FEB 2 2 2008

OFFICE OF PETITIONS

In re Patent No. 6,924,341 :
Issue Date: August 2, 2005 :
Application No. 10/473,455 : ON PETITION
Filed: April 7, 2004 :
Attorney Docket No. UAB-20502/22 :

This is a decision on the petition filed September 16, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add the assignees' name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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P.O. Box 1450
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3/17/08

Patent No. : 6,924,341 B2
Application No : 10/473,455
Inventor(s) : Mays, et al.
Issued : August 2, 2005
Title : POLYMER FORMATION IN ROOM TEMPERATURE IONIC LIQUIDS
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 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) 273-8300
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.

Valerie Jackson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 114

Avery N. Goldstein, Ph.D.
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.
2701 Troy Center Drive, Suite 330
Post Office Box 7021

vj/MFD

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Dennemeyer & Co LTD
Regent House, Heaton Lane
Stockport, Cheshire
SK4 1BB
GREAT BRITAIN

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OFFICE OF PETITIONS

In re Patent of Destoumieux :
Patent No. 6,968,639 :
Issue Date: November 29, 2005 : Letter
Application No. 10/473,476 :
Filing Date: September 26, 2003 :
Attorney Docket No. 37261P089 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed June 17, 2009.

The request was submitted by Dennemeyer & Co LTD. Thee request states a declaration from the Assignee confirming large entity status is enclosed. The declaration states:

> To Whom It May Concern:
>
> CHEVILLOT S.A. is a large entity according to USPTO standards.
>
> Very truly yours,
>
> [Signature of the Inventor]
> [Assignee's name and address]
> [Illegible signature]

The request is problematic for several reasons.

The first reason the request is problematic is the fact the declaration is signed on behalf of an assignee without the proof of ownership required under 37 CFR 3.73(b). Fortunately, the declaration includes the sole inventor's signature. Therefore, the declaration is accepted.

The second reason the request is problematic is the fact the request is not signed. The accompanying statement is signed by does not make any reference to a need to the submission of a deficiency payment. Considering the record as a whole, the Office will impute the signatures on the declaration to the request. However, in the future, requests should be signed and the Office retains the discretion to reject unsigned requests filed in the future.

The third reason the request is problematic is the fact the address listed on the request is different than the "fee address" of record. The fee address associated with the instant patent is for a branch (or the headquarters) of Dennemeyer & Co. LTD located in Luxembourg. The address on the request is also for a branch of Dennemeyer & Co. LTD located in Great Britain. A copy of this decision is being mailed to the address given on the request. However, all future correspondence will be mailed to the address of record.

Despite problems with the request, the Office has determined the request should be accepted. In other words, the deficiency payment of $490 is hereby accepted.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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30 JAN 2007

Perkins Coie
PO Box 2168
Menlo Park CA 94026

In re Application of
TANAKA et al.
Serial No.: 10/473,493
PCT No.: PCT/JP01/02511
Int. Filing Date: 27 March 2001
Priority Date: None
Atty. Docket No.: 59150-8025
For: RICE-DERIVED HIGH EXPRESSION POLY-PEPTIDE CHAIN ELONGATION FACTOR PROMOTER AND METHOD OF USING THE SAME

: DECISION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371. This decision is responsive to applicants' "Petition to Correct the Acceptance Date" requesting issuance of a new Notification of Acceptance under 35 U.S.C. 371 filed in the United States Patent and Trademark Office (USPTO) on 17 November 2006 in the above referenced application.

On 26 September 2003, within the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee, an executed declaration/power of attorney and an English translation of the international application, meeting the requirements under 35 U.S.C. 371(c).

On 04 March 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was issued indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required. The time period for response was set at two months from the mail date of the notice, with extensions of time available under 37 CFR 1.136(a). A response to the Form 905 was filed on 04 March 2004 including a copy of the declaration previously filed and a copy of the USPTO date-stamped itemized postcard receipt indicating that the declaration was filed on 27 September 2003.

On 19 March 2004, a Notification of Acceptance was mailed to applicant indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371(c)(2) and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 04 March 2004.

A review of the application file reveals that as required by 35 U.S.C. 371(c)(4), a declaration, in compliance with 37 CFR 1.497(a) and (b) was submitted on 27 September 2003. In light of the above, the Notification of Acceptance (Form PCT/DO/EO/903) issued on 19 March 2004 is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Acceptance. The 35 U.S.C. 371(c)(1), (c)(2) (c)(4) and (c)(5) date of date is **26 September 2003.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Thomas VONHEIM, et al. :
Application No. 10/473,499 : DECISION ON PETITION
Filed: March 3, 2004 : TO MAKE SPECIAL
For: **METHOD FOR TRANSFERRING A DEVICE IDENTIFIER BLOCK ON A SECOND COMMUNICATION LINK SEPARATED FROM THE BLUETOOTH LINK** :

This is a decision on the petition filed November 1, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

John P. Luther
Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

In Re Application: FRANK, Charles et. al.
Application No. **10/473,509**
Filed: September 23, 2004
Atty Docket No: 119127-160978
Title of Invention: DATA STORAGE DEVICES HAVING IP CAPABLE PARTITIONS

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to petition filed 09/23/04 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **Granted**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
>
> (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
>
> 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 Technology Center (TC) Special Program Examiner.

Petition to Make Special is **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) met.

Accelerated examination in accordance with M.P.E.P. §708.02, Section VIII will be applied to the above-mentioned application. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Any inquiry regarding this decision should be directed to undersigning Beatriz Prieto, Workgroup Quality Assurance Specialist (WQAS), at (571) 272-3902. A second point of contact is WQAS Kim Huynh whose number is (571) 272-4147

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/473,509	03/25/2004	Charles Frank	119127-160978	2750

25943 7590 05/07/2010

Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER	
HENRY, MARIEGEORGES A	

ART UNIT	PAPER NUMBER
2455	

MAIL DATE	DELIVERY MODE
05/07/2010	PAPER

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

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

31 AUG 2004

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#9

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Incyte Corporation
Legal Department
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
BAUGHN et al.	:	
Application No.: 10/473,519	:	
PCT No.: PCT/US02/09820	:	DECISION ON PETITION
Int. Filing Date: 29 March 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 30 March 2001	:	
Attorney Docket No.: PI-0401USN	:	
For: SCRETED PROTEINS	:	

This decision is in response to applicants' "Statement Regarding Name Change - Inventor" filed 30 September 2003 and "Petition under 37 CFR 1.47(a)" filed 03 June 2004 to accept the application without the signature of joint-inventor, Madusudan Sanjanwala. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 29 March 2002, applicants filed international application PCT/US02/09820 which claimed a priority date of 30 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, 20 September 2003.

On 30 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; a preliminary amendment; and a Statement Regarding Name Change - Inventor.

On 08 March 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 03 June 2004, applicant filed the present petition under 37 CFR 1.47(a) and a declaration executed by twenty-seven of the twenty-eight applicant/inventors and a petition under 37 CFR 1.47(a) on behalf of Madusudan Sanjanwala.

DISCUSSION

A. Statement Regarding Name Change

Applicants are requesting to change the name of the third named inventor from Narinder K.. Walia to Narinder K. Chawla due to marriage.

The petition to correct the name of the inventors was accompanied by a copy of a "Request To Change Applicants/Inventors Name And Address Under Rule 92bis" that has apparently been filed with the International Bureau ("IB"). If this requested name change was entered in the international application by the IB, then the change would apply to the present national stage application, and no further action would be required. However, a review of the application file reveals that there is no record of a Notification of the Recording of a Change (Form PCT/IB/306) being issued by the IB confirming the requested name change in the international phase. Accordingly, the papers filed on 30 September 2003 have been treated as a petition under 37 CFR 1.182 to make the requested change in the present national stage application.

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order. Here, the 30 September 2003 submission included the authorization to charge Deposit Account No. 09-0108 the required petition fee, and it was accompanied by an affidavit signed by both inventors using their former name and present names. Applicants have provided all the requirements for a grantable petition.

B. 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 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 applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Madusudan Sanjanwala. The steps taken are sufficient to show that Madusudan Sanjanwala has refused to execute the application.

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

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Narinder Walia to Narinder Chawla is **GRANTED**.

For the reasons above, 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 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 forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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

31 AUG 2004

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Madusudan Sanjanwala
210 Silvia Court
Los Altos, California 94024

In re Application of:
BAUGHN et al.
Application No.: 10/473,519
PCT No.: PCT/US02/09820
Int. Filing Date: 29 March 2002
Priority Date: 30 March 2001
Attorney Docket No.: PI-0401USN
For: SCRETED PROTEINS

Dear Madusudan Sanjanwala:

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

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

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

Legal Department
Incyte Corporation
3160 Porter Drive
Palo Alto, CA 94304

19 APR 2005

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Eric D. Cohen
Welsh & Katz, Ltd.
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606

In re Application of	
LEE, et al.	DECISION ON PETITION
Application No.: 10/473,537	
PCT No.: PCT/CN02/00214	UNDER 37 CFR 1.47(a) AND
Int. Filing Date: 29 March 2002	
Priority Date: 30 March 2001	REQUEST FOR STATUS
Attorney Docket No.: 8986-90433	
For: DETERMINATION OF RISK FACTORS FOR CATARACT BY ALDOSE REDUCTASE GENOTYPE	UNDER 37 CFR 1.42

This decision is in response to the facsimile filing of 04 April 2005 in the United States Patent and Trademark Office (USPTO). A review of the application file finds a petition under 37 CFR 1.47(a) filed 26 April 2004 contained therein. In addition, the combined declaration and power of attorney filed 26 April 2004 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 29 March 2002, applicant filed international application PCT/CN02/00214 which claimed priority to an earlier application filed 30 March 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 September 2003.

On 29 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).

On 13 February 2004, 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 01 March 2004, applicant filed a response which included a combined declaration and power of attorney executed by four of the five listed inventors.

On 26 April 2004, applicant filed the petition under 37 CFR 1.47(a) considered herein.

On 05 May 2004, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the declaration filed 01 March 2004 was defective as it did not contain a statement that the persons signing the declaration believed that the named inventors were the sole and original inventors for the application.

On 19 May 2004, applicant filed a response showing that the statement in question was contained in the filed declaration and power of attorney filed 26 April 2004.

On 04 April 2005, applicant filed a facsimile communication with the USPTO indicating that no response had been received as to the filings listed above.

DISCUSSION

I. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $130 petition fee required by 37 CFR 1.17(g); (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).

Regarding Item (4), the accompanying declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor contains three versions of the signature page listing inventors Ng, Chan and Critchley. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.) In addition, as discussed in further detail below, the declaration does not comply with 37 CFR 1.497(b).

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

II. Request For Status Under 37 CFR 1.42

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator,

etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted on 26 April 2004 was executed by Christina Parry West as heiress of the deceased inventor, Julian A.J.H. Critchley. 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 only provides the residence, citizenship, and post office address for one individual. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b).

In addition, neither the filed declaration nor the accompanying cover letter states that Ms. West is the sole heir to the estate, thus their may be other heirs who are required to execute the declaration. A signed statement is required from either counsel or Ms. West that she is the sole heir and that the declaration has been executed by all of the heirs of the deceased inventor and that a legal representative has not been appointed nor is statutorily required to be appointed.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicant's request for status under 37 CFR 1.42 is **DISMISSED**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file a proper response as indicated above. Any reconsideration request should include a cover letter entitled, "Renewed Petitions Under 37 CFR 1.42 and 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

23 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 D. Cohen
Welsh & Katz, Ltd.
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606

In re Application of	:	
LEE, et al.	:	
U.S. Application No.: 10/473,537	:	
PCT No.: PCT/CN02/00214	:	DECISION ON RENEWED
Int. Filing Date: 29 March 2002	:	
Priority Date: 30 March 2001	:	PETITION UNDER
Attorney Docket No.:8986-90433	:	
For: DETERMINATION OF RISK FACTORS	:	37 CFR 1.47(a)
FOR CATARACT BY ALDOSE	:	
REDUCTIVE GENOTYPE	:	

This decision is in response to applicant's "Renewed Petitions Under 37 C.F.R. 1.42 and 37 C.F.R. 1.47(a) and Completion of Missing Parts" filed 14 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 April 2005, 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 14 June 2005, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 19 April 2005, 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 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 inventor, Shao C. Lee. Regarding the deceased inventor, Julian A.J.H. Critchley, the present declaration executed by his heir, Christina Parry West details the residence, mailing address and citizenship for both individuals and thus satisfies the provisions of 37 CFR 1.42 and 37 CFR

1.497(b). 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 29 March 2002 under 35 U.S.C. 363, and will be given a date of **14 June 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), 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: (571) 272-3294
Fax: (571) 273-0459

23 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

Dr. 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.: 10/473,537
PCT No.: PCT/CN02/00214
Int. Filing Date: 29 March 2002
Priority Date: 30 March 2001
Attorney Docket No.:8986-90433
For: DETERMINATION OF RISK FACTORS FOR CATARACT BY ALDOSE REDUCTIVE GENOTYPE

Dear Dr. 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. 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: (571) 272-3294
Fax: (571) 273-0459

Eric D. Cohen
Welsh & Katz, Ltd.
120 South Riverside Plaza, 22nd Floor
Chicago, IL 60606
United States of America

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P.O. Box 1450
Alexandria, VA 22313-1450
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IP GROUP OF DLA PIPER LLP (us)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

MAILED

APR 08 2010

OFFICE OF PETITIONS

In re Application of :
Hiroo Kumagai et al :
Application No. 10/473,541 : DECISION GRANTING PETITION
Filed: September 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1360-03 (308884-004) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 30, 2010 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 1627 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 Petition

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG NY 10962-2100

COPY MAILED

MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Masato Gomyo :
Application No. 10/473,543 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. G110-063 US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on January 9, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed December 22, 2005. The Restriction Requirement set a one (1) month shortened statutory period for reply. A reply was received on January 18, 2005. A Notice indicating the reply was not fully responsive was mailed on April 15, 2005. A reply to the April 15, 2005 was not received. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on January 23, 2005. A Notice of Abandonment was mailed on December 12, 2005.

Petitioner asserts that a reply to the restriction requirement was submitted with a three month request for extension of time on April 22, 2005. As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply. Additionally, petitioner has supplied a copy of the previously mailed correspondence.

The response submitted April 22, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

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

Petitioner's argument that the extension of time fee be refunded has been considered but is not persuasive. The examiner has discretion to determine whether a one month shortened period for reply should be provided to applicant to supply the omission to the previous reply. See MPEP 710.01 and 714.03. Any request for review of Art Unit 3682 restriction requirement practice should first be directed to the Director of 3600.

The application file is being forwarded to the Technology Center 3682 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

12 FEB 2004

UNITED STATES PATENT and TRADEMARK OFFICE

#3

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

Alfred K. Wiedmann Jr.
Santangelo Law Offices, P.C.
125 South Howes, Third Floor
Fort Collins, CO 80521

In re Application of	:	DECISION ON
Anatoli V. Ledenev et al	:	
PCT No.: PCT/US01/25749	:	
Int. Filing Date: 17 August 2001	:	
Priority Date: 18 August 2000	:	PETITION UNDER
Attorney's Docket No.: AEICoupLUSNP	:	
For: Multiple Power Converter System using	:	
Combining Transformers	:	37 CFR 1.181

This is in response to applicant's "PETITION TO ACCORD APPLICATION FILING DATE OF EXPRESS MAIL CERTIFICATE UNDER 37 C.F.R. §§1.10 AND 1.181" filed 31 January 2003 and the facsimile transmitted on 09 January 2004, requesting that the above-identified international application be considered as received in the United States Patent and Trademark Office (USPTO) on 18 February 2003 as evidenced by the postcard. No petition fee is required.

BACKGROUND

On 31 January 2003, applicants filed the present petition that states that the following correspondence was deposited with the USPS as an Express Mail package, mailing label EV069695041US on 18 February 2003 but was not received by the U.S. Patent and Trademark Office. Although a post card was date stamped by the USPTO on 18 February 2003 no serial number was ever communicated to applicants' attorney. Applicants' attorney contacted the PCT Help Desk on May 22, 2003 to obtain the serial number for the U.S. national phase application filed on February 18, 2003 but PCT Help Desk indicated that it did not have a record of the U.S. national phase of the papers submitted by applicants.

On 09 January 2004, applicants faxed true copies of the papers submitted on January 31, 2003. The submitted petition includes, inter alia: 1) Receipt Post Card, 2) Application Data Sheet, 3) Declaration for Patent Application, 4) Transmittal letter, and 5) A copy of the customer receipt of "Express Mail" Label No. EV069695041US.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard, *inter alia*:

1) Receipt Post Card,
2) Application Data Sheet,
3) Declaration for Patent Application,
4) Transmittal letter, and
5) International application
6) A copy of the customer receipt of "Express Mail" Label No. EV069695041US

The postcard lists the above items and bears a USPTO date of stamp as 18 February 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the national stage papers were deposited with the U.S. Patent and Trademark Office on 18 February 2003.

CONCLUSION

For the reasons above, the petition under 37 C.F.R. §1.181 is **GRANTED**.

The National Stage papers were received by the USPTO on 18 February 2003.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and a filing receipt and the date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of this application is **18 February 2003.**

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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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
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAY 25 2005

OFFICE OF PETITIONS

In re Application of :
Laurent Vidal et al :
Application No. 10/473,625 :
Filed: December 11, 2003 :
Attorney Docket No. 05725.1245 :

ON PETITION

This is a decision on the petition, filed May 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1751 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : May 25, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Laurent Vidal et al
Application No. :10/473,625
Filed :December 11, 2003

The above-identified application has been assigned Patent No. 6,899,738 and an issue date of May 31, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 31, 2005:

> "All reference to Patent No. 6,899,738 to Laurent Vidal et al of France for DYEING COMPOSITION FOR DYEING KERATINOUS FIBRES COMPRISING A CATIONIC AZO-DYE appearing in the Official Gazette of May 31, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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6/8/09

Patent No. :7511023
Ser. No. :10473629
Inventor(s) :Kwon
Issued : 3/31/09
Title : ANTICANCER DRUG CHITOSAN COMPLEX FORMING SELF-AGGRERGATES AND PREPARATION METHOD THEROF
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 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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
NEW YORK, NY 10016

HR

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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DEC 0 3 2009

OFFICE OF PETITIONS

In re Patent No. 7,511,023 :
Application No. 10/473,629 :
Filed: October 1, 2003 : ON PETITION
Issued: March 31, 2009 :
Attorney Docket No. 428.1117 :

This is a decision on the petition under 37 CFR 1.183 filed June 12, 2009, which is being treated as a petition under 37 CFR 3.81(b) to accept the correction of the assignee on the front page of the above-identified patent. This is also a decision on the petition under 37 CFR 1.182 filed June 1, 2009 to reprint the assignee's name on the front page of the Letters Patent..

The petition under 37 CFR 3.81(b) to correct the assignee's name is **GRANTED**.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is **GRANTED**.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an application in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which states:

> "Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such correct form."

In view of the above, and since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the front page of the Letters Patent.

However the USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee (previously paid on June 1, 2009)
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives (previously paid on June 1, 2009)

Since petitioner has met the conditions noted above, the front page of the Letters Patent will be reprinted to include the assignee's name.

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a certificate of correction in Office records.

Additionally, 37 CFR 3.81(b) requires payment of a $130.00 surcharge fee, which will be charged to petitioner's deposit account as authorized June 12, 2009.

The matter is being referred to the Certificates of Correction Branch for appropriate processing of a certificate of correction to be placed in the archives of the USPTO and for reprinting the front page of the original Letters Patent.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200. Telephone inquiries regarding the reprinting of the front page of the Letters Patent should be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Max Moskowitz
Ostrolenk Faber Gerb & Soffen
1180 Avenue of Americas
New York, NY 10036-8403

In re Application of :
SUSINI et al. :
U.S. Application No.: 10/473,659 :
PCT No.: PCT/FR02/01255 : DECISION ON PETITION
Int. Filing Date: 10 April 2002 : UNDER 37 CFR 1.47(a)
Priority Date: 27 April 2001 :
Attorney Docket No.: P/24-178 :
For: LIPSTICK MECHANISM OR THE LIKE WITH FRICTIONAL BRAKING :

This decision is in response to applicants' "Petition under 37 CFR 1.47(a) and/or (b)" filed 30 July 2004 to accept the application without the signature of joint-inventor, Claude Susini. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 10 April 2002, applicants filed international application PCT/FR02/01255 which claimed a priority date of 27 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 November 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 27 October 2003.

On 15 April 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 12 February 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 30 July 2004, applicants filed 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 non-signing joint inventor. Items (1), (3) and(4) have been satisfied.

Regarding item (2) above, petitioner states that Claude Susini 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 and the accompanying papers reveal that applicant has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Claude Susini. The "Declaration of Charles Roth-Meyer" states that "[o]n 22 April 2004, I sent a letter to Mr. Susini at the above address, enclosing a copy of the above-mentioned patent application . . . No response was received." However, declarant fails to include evidence to demonstrate that the materials were received by the nonsigning inventor. Under these circumstances, where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant.

Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor's, item (2) cannot be considered satisfied.

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 Claude Susini, 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 Claude Susini 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.: 571-272-3298
Fax: 571-272-0459

06 JUL 2005

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ALEXANDRIA, VA 22313-1450
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Robert C. Faber
Ostrolenk Faber Gerb & Soffen
1180 Avenue of Americas
New York, NY 10036-8403

In re Application of :
SUSINI et al. :
U.S. Application No.: 10/473,659 :
PCT No.: PCT/FR02/01255 : DECISION ON PETITION
Int. Filing Date: 10 April 2002 : UNDER 37 CFR 1.47(a)
Priority Date: 27 April 2001 :
Attorney Docket No.: P/24-178 :
For: LIPSTICK MECHANISM OR THE LIKE WITH FRICTIONAL BRAKING :

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 14 March 2005. In a decision dated 12 October 2004 the "Petition under 37 CFR 1.47(a)" filed 04 August 2004 was dismissed because applicant did not provide adequate proof that the missing inventor, Claude Susini, refused to execute the application or could not be reached after diligent effort. The procedural background for this application was set forth in detail in the decision mailed by this Office on 12 October 2004.

DISCUSSION

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

As to Item (2), a review of the present petition and the accompanying papers reveal that applicant has 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 Claude Susini. The steps taken by Charles Roth-Meyer and Marie-Emilie Le Fur are sufficient to show that the missing inventor refuses to execute the application.

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**.

The application will be given an international filing date of 10 April 2002 under 35 U.S.C. 363, and a date of **04 August 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

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

06 JUL 2005

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Claude Susini
La Croix Leonard
71260 Vers, France

In re Application of
SUSINI et al.
U.S. Application No.: 10/473,659
PCT No.: PCT/FR02/01255
Int. Filing Date: 10 April 2002
Priority Date: 27 April 2001
Attorney Docket No.: P/24-178
For: LIPSTICK MECHANISM OR THE LIKE WITH FRICTIONAL BRAKING

Dear Mr. Susini:

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
Tel.: 571-272-3298
Fax: 571-272-0459

Counsel of Record:
Robert C. Faber
Ostrolenk Faber Gerb & Soffen
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19 JUN 2007

William A. Drucker
1901 L Street N.W.
Suite 800
Washington, D.C. 20036-3506

In re Application of :
Bendavid et al :
U.S. Application No.: 10/473,661 :
PCT Application No.: PCT/FR02/01049 : DECISION
Int. Filing Date: 26 March 2002 :
Priority Date Claimed: 30 March 2001 :
Attorney Docket No.: DAVIB0011 :
For: DEVICE FOR STORING A VISUAL SEQUENCE IN RESPONSE TO WARNING SIGNAL ON BOARD A VEHICLE :

This is in response to applicant's "Request for Withdrawal as Attorney or Agent" filed 26 January 2007.

BACKGROUND

On 26 January 2007, the present request to withdraw as attorney was filed. There was no reason given by applicant for the request to withdraw under 37 CFR 10.40.

DISCUSSION

MPEP 402.06 states in relevant part,

> The Director of the United States Patent and Trademark Office usually requires that there be at least 30 days between approval of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In the present case, at least 30 days remain 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).

CONCLUSION

For the reasons above, the request for withdrawal as attorney or agent is **DISMISSED** without prejudice, since there was no reason provide under 37 CFR 10.40.

Newton Edwards
PCT Legal Administration Detailee
PCT Special Programs Office

Telephone: 571-272-6094
Facsimile: 571-273-0459

Leonard Smith
Supervisory PCT Legal Examiner
PCT Legal Office

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04 FEB 2008

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C.
489 Fifth Avenue
New York, NY 10017-6105

In re Application of :
YAO *et al* :
U.S. Application No.: 10/473,685 :
PCT No.: PCT/GB2002/001157 :
Int. Filing Date: 13 March 2002 :
Priority Date: 15 March 2001 : **DECISION**
Attorney Docket No.: P/63254 :
For: HARDWARE DESIGN USING :
EVOLUTION ALGORITHMS :

This petition is in response to the papers filed on 10 January 2008 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 26 January 2004, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge fee were required. Applicants were given two months to respond with extensions of time available.

On 25 March 2004, applicants purportedly filed a response via facsimile containing an executed declaration and a $130.00 surcharge fee. These papers were not located in the file.

On 30 March 2006, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 26 January 2004.

On 10 April 2006, applicants purportedly filed a petition to withdraw the holding of abandonment.

On 10 January 2008, applicants resubmitted the petition to withdraw the holding of abandonment.

DISCUSSION

Applicants claim to have responded to the Notification of Missing Requirements on 25 March 2004, but this response was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 25 March 2004. The postcard receipt records that among the papers received in the USPTO included a "Late Filing of Declaration, Signed Declaration" and a check for $130.00. The postcard receipt is stamped "OIPE MAR 25 2004" across its face. The U.S. application number, title and name of applicants are listed on the postcard receipt. Moreover, applicants provided copies of these documents with the subject petition. In addition, the $130.00 surcharge fee was recorded as received on 25 March 2004 in USPTO financial records.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 25 March 2004.

The original petition to withdraw the holding of abandonment filed 10 April 2006 was also not located in the file. Applicants submitted sufficient evidence to show that the original petition was timely filed on 10 April 2006. *See* MPEP § 503.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 30 March 2006 is hereby **VACATED**.

However, the declaration originally submitted on 25 March 2004 shows that it contains noninitialed changes in ink on the declaration regarding the spelling of the last name of the second named inventor, Thorsten Schnier. Any changes made in ink must be initialed and dated by the applicants prior to execution of the declaration.

The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. *See* MPEP § 605.04(a). Thus, the declaration cannot be accepted.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to provide an acceptable declaration in compliance with 37 CFR 1.497(a) and (b). Failure to properly respond will result in the **ABANDONMENT** of the subject application.

Any further correspondence with respect to this matter deposited with the United

States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#5

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04 FEB 2008

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C.
489 Fifth Avenue
New York, NY 10017-6105

In re Application of :
YAO *et al* :
U.S. Application No.: 10/473,685 :
PCT No.: PCT/GB2002/001157 :
Int. Filing Date: 13 March 2002 :
Priority Date: 15 March 2001 : **DECISION**
Attorney Docket No.: P/63254 :
For: HARDWARE DESIGN USING :
EVOLUTION ALGORITHMS :

This petition is in response to the papers filed on 10 January 2008 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 26 January 2004, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge fee were required. Applicants were given two months to respond with extensions of time available.

On 25 March 2004, applicants purportedly filed a response via facsimile containing an executed declaration and a $130.00 surcharge fee. These papers were not located in the file.

On 30 March 2006, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 26 January 2004.

On 10 April 2006, applicants purportedly filed a petition to withdraw the holding of abandonment.

On 10 January 2008, applicants resubmitted the petition to withdraw the holding of abandonment.

DISCUSSION

Applicants claim to have responded to the Notification of Missing Requirements on 25 March 2004, but this response was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 25 March 2004. The postcard receipt records that among the papers received in the USPTO included a "Late Filing of Declaration, Signed Declaration" and a check for $130.00. The postcard receipt is stamped "OIPE MAR 25 2004" across its face. The U.S. application number, title and name of applicants are listed on the postcard receipt. Moreover, applicants provided copies of these documents with the subject petition. In addition, the $130.00 surcharge fee was recorded as received on 25 March 2004 in USPTO financial records.

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the USPTO on 25 March 2004.

The original petition to withdraw the holding of abandonment filed 10 April 2006 was also not located in the file. Applicants submitted sufficient evidence to show that the original petition was timely filed on 10 April 2006. *See* MPEP § 503.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 30 March 2006 is hereby **VACATED**.

However, the declaration originally submitted on 25 March 2004 shows that it contains noninitialed changes in ink on the declaration regarding the spelling of the last name of the second named inventor, Thorsten Schnier. Any changes made in ink must be initialed and dated by the applicants prior to execution of the declaration.

The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. *See* MPEP § 605.04(a). Thus, the declaration cannot be accepted.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to provide an acceptable declaration in compliance with 37 CFR 1.497(a) and (b). Failure to properly respond will result in the **ABANDONMENT** of the subject 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
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KATHLEEN R. TERRY
2417 COMO AVENUE
ST. PAUL MN 55108

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JUL 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Van Tassel, et al	:	ON PETITION
Application No. 10/473,693	:	
Filed: September 29, 2003	:	
Attorney Docket No. BP.033 US 1	:	
For: COMPOSITIONS TO REDUCE EXERCISE-INDUCED SWELLING OF JOINTS	:	

This is a decision on the petition under 37 CFR 1.137(a), filed August 15, 2005, to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the non- final Office action mailed September 30, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on December 31, 2004. A Notice of Abandonment was mailed on May 6, 2005.

Petitioners' reply to the September 30, 2004 non-final Office action was allegedly mailed on December 30, 2004. Petitioners assert that the reply to the September 30, 2004 non- final Office action was timely filed and lost within the Office. The Office has no record of receiving the reply.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Regarding (1) above, the amendment is not signed and therefore, will not be addressed on the merits.

Regarding (3) above, petitioners have not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications 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.

Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

As stated above, the Office never received the December 30, 2004 mailing. The Office has no record of receiving an amendment (albeit unsigned) until August 15, 2005, when petitioners filed the instant petition. While petitioners have made a statement that the amendment was mailed on December 30, 2004, petitioners have submitted no officially recognized documentary evidence of this fact.

There are three ways an applicant can obtain a filing date other than the date of receipt for correspondence other than original applications: (1) Petitioners must supply their copy of the date-stamped itemized postcard receipt. The date-stamped return postcard would

constitute *prima facie* evidence that the amendment was filed on December 30, 2004. MPEP 503 OR (2) Petitioners must provide a copy of the original document with an affixed, signed certificate of mailing listing the desired date as the date of deposit (See 37 CFR 1.8) OR (3) Petitioners must provide a copy of an Express Mail label showing a "date-in" of the desired date and a copy of the document that contains a reference to the Express Mail receipt number (37 CFR 1.10).

Unfortunately, petitioners cannot locate their return postcard indicating receipt of the December 30, 2004 mailing by the Office . In addition, petitioners cannot rely on certificate of mailing practice (37 CFR 1.8) to obtain a December 30, 2004 filing date for the amendment because the certificate of mailing affixed to the December 30, 2004 mailing is not signed. Finally, the undersigned reviewed the file of application no. 09/473,693 because it is noted that the December 30, 2004 amendment cited application no. 09/473,693 rather than the correct application number, 10/473,693. However, the December 30, 2004 amendment was not present in the file of application no. 09/473,693.

Because petitioners have not proved the amendment was timely filed in the Office, petitioners have not proved the delay was unavoidable.

ALTERNATE VENUE

Petitioners are encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" delay revival petition under 37 CFR 1.137(b) must be accompanied by the required $750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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 petitioners intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Charles Frank	: DECISION ON REQUEST FOR
Patent Number	: 7602773	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/473,713	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1426** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

23 JUN 2004

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
KIMURA et al.	:	DECISION ON
Application No.: 10/473,719	:	
PCT No.: PCT/JP02/03445	:	PAPERS
Int. Filing Date: 05 April 2002	:	
Priority Date: 06 April 2001	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 041094-5023	:	
For: COSMETIC MATERIAL AND	:	
MANUFACTURING METHOD THEREOF	:	

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US)" filed in the United States Patent and Trademark Office (USPTO) on 22 April 2004, which was accompanied by a declaration of inventors. The indication in this declaration that joint inventor Yamada is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 05 April 2002, applicants filed international application PCT/JP02/03445, which designated the United States and claimed priority of an earlier application filed on 06 April 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 17 October 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 October 2003.

On 01 October 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 19 March 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 for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable time period for reply.

On 22 April 2004, applicants submitted the instant "RESPONSE TO NOTIFICATION

OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US)" filed in the United States Patent and Trademark Office (USPTO), which was accompanied by a declaration of inventors and the surcharge under 37 CFR 1.492(e). The indication in this declaration that joint inventor Yamada is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 22 April 2004 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 22 April 2004 is 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**.

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

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SUITE 340
RESTON VA 20190

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OFFICE OF PETITIONS

In re Application of :
Paul Geral Van De Veen :
Application No. 10/473,720 : ON PETITION
Filed: October 1, 2003 :
Attorney Docket No.: 03100183AA

This is a decision on the petition filed May 20, 2005 to reinstate the application, which is treated under 37 CFR 1.181. The petition is also filed in the alternative under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner argues that the Notice of Allowability mailed November 18, 2004 required Corrected Drawings and that such a requirement was incorrect and thus no drawings were filed in response to the Notice.

Petitioners are advised that if an Office communication is mailed and that in the absence of that communication not being withdrawn by the USPTO, then by law a response is required. The failure to file a response causes the application to become abandoned, even if that communication was sent in error. There is no evidence that the applicants filed a written response or query as is required by 37 CFR 1.2. Therefore, applicants are not afforded an opportunity then to withhold a response based on a perceived error on the part

---

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

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

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

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

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

of the USPTO. If applicants perceived an error with the request for "Corrected Drawings" they had an affirmative obligation to file a response that no such drawings should have been required.

This application properly became abandoned February 22, 2005 for failure to file a timely reply to the Notice of Allowability mailed November 18, 2004 and therefore the Notice of Abandonment mailed May 5, 2005 was appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

With respect to the petition to revive, the petition fee in the amount of $1500.00 has been charged to deposit account no. 50-2041.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division for review of the drawings shown as having been received in the PTO on May 20, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SYNNESTVEDT & LECHNER LLP
1101 MARKET STREET
SUITE 2600
Philadelphia PA 19107-2903

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OFFICE OF PETITIONS

In re Application of :
Gyurik : DECISION ON APPLICATION
Application No. 10/473,724 : FOR PATENT TERM ADJUSTMENT
Filed: October 1, 2003 :
Atty. Dkt. No.: P24,127-B USA :

This is a decision on the "Applicant's Request for Reconsideration of "Determination of Patent Term Adjustment under 35 U.S.C. 154(b)", dated September 5, 2007," filed September 10, 2007. This matter is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

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

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed September 5, 2007, indicated a patent term adjustment (PTA) to date of 732 days. The issue fee payment and the instant application for PTA were timely filed September 10, 2007.

The correct PTA at the time of the allowance is 732 days, as indicated on the Determination of Patent Term Adjustment mailed September 5, 2007.

Applicant does not dispute the adjustment of 812 for Office delay under 37 CFR 1.702(a)(1). Applicant argues that the reduction of 80 days for applicant's failure to engage in reasonable efforts to conclude prosecution is in error, and, further, argue that at most, the reduction should total 15 days.

A non-final Office action was mailed February 15, 2007. A response thereto was submitted April 30, 2007. A supplemental response was submitted July 19, 2007. Therefore, in accordance with 37 CFR 1.704(c)(8), the adjustment of 812 days was reduced 80 days. The reduction began May 1, 2007, the day after the date that the initial reply was filed, and ended July 19, 2007, the date that the supplemental reply was filed. There is no indication in the record that the supplemental reply filed July 19, 2007 was expressly

requested by the examiner. Therefore, the supplemental reply is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(8).

In view thereof, at the time of allowance, the application was entitled to a patent term adjustment of 732 days, as indicated on the Determination of Patent Term Adjustment.

Applicant is further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required fee of $200.00 for an application for patent term adjustment has been charged to Deposit Account No. 19-5425, as authorized on the PTOL-85B submitted herewith.

This application is being forwarded to the Office of Patent Publications for further processing.

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

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OFFICE OF PETITIONS

ALEXIS BARRON, ESQ.
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Philadelphia PA 19107-2903

In re Patent No. 7,320,968
Issued: January 22, 2008
Application No. 10/473,724
Filed: October 1, 2003
Dkt. No.: P24,127-B USA

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on "Applicant's Request for Reconsideration of Determination of Patent Term Adjustment under 37 C.F.R. § 1.705," filed March 19, 2008. This matter is being under 37 CFR 1.705(d) as an application for patent term adjustment.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The above-identified application matured into U.S. Pat. No. 7,320,968 on January 22, 2008. The instant request for reconsideration of patent term adjustment (PTA) was timely filed March 19, 2008. The patent issued with 638 days of patent term adjustment. Patentee argues that the patent is entitled to an adjustment of 812 days.

Patentee asserts that the patent is entitled to an additional adjustment of 12 days pursuant to 37 CFR 1.702(a)(4).

A review of the record reveals that in response to the Notice of Allowance mailed September 5, 2007, the issue fee was submitted September 10, 2007. In view thereof, the patent is entitled to an additional adjustment of 12 days pursuant to 37 CFR 1.702(a)(4). The adjustment commenced January 11, 2008 and ended January 22, 2008. See, 37 CFR 1.703(a)(6). Accordingly, the request for an increase in adjustment of 12 days is GRANTED.

Patentee argues that the reduction of 94 days accorded in response to the Rule 312 amendment filed September 10, 2007 is in error. Patentee's arguments have been carefully considered, but are not found convincing. In accordance with 37 CFR 1.704(c)(10), submission of a Rule 312 amendment (or other paper) after mailing of the Notice of Allowance is deemed a failure to engage in reasonable efforts to conclude prosecution. There is no indication in the record that the

Patentee further renews the previous argument that the reduction of 80 days accorded in response to the supplemental reply field July 19, 2007 is in error. After careful consideration of patentee's arguments, the request for reconsideration of said 80 day reduction remains DISMISSED for the reasons set forth in the decision mailed December 14, 2007. The supplemental response is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(c)(8).

In view thereof, a certificate of correction indicating that the term of the patent is extended or adjustment by 650 days (adjustments totaling 824 less reductions totaling 174).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 650 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,320,968 B2

DATED : **January 22, 2008** **DRAFT**

INVENTOR(S) : Gyurik

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 638 days.

Delete the phrase "by 638 days" and insert – by 650 days--

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United States Patent and Trademark Office
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FOX ROTHSCHILD LLP
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

Mail Date: 06/04/2010

Applicant	: Gilles Pauly	: DECISION ON REQUEST FOR
Patent Number	: 7651692	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/473,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1130** 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.

#9

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Washington DC 20007-5116

In re Application of JOHANNESSEN et al. Application No.: 10/473,733 PCT No.: PCT/SE02/00646 Int. Filing Date: 02 April 2002 Priority Date: 02 April 2001 Attorney Docket No.: 19387 For: INDUSTRIAL ROBOT	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Defective Response/ Notification of Missing Requirements" treated as a request to correct inventorship under 37 CFR 1.497(d)(3), filed on 10 June 2004 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Erik Carlson as inventor in the above referenced application. The requisite $130 petition fee was charged to applicant's deposit account per his authorization. The $130 surcharge for filing the declaration after the 30 month period was also paid. Applicant requests a two month extension of time, which is granted.

BACKGROUND

On 13 February 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), was required. On 27 February 2004, in response to the Notification of Missing Requirements, a declaration signed by the inventors named in the published international application and by Erik Carlson was submitted.

On 22 March 2004, a Notification of Defective Response was mailed to applicant indicating that the declaration was not executed in accordance with either 37 CFR 1.66 or 1.68; that is Erik Carlson did not appear as an inventor on the published application.

On 10 June 2004, in response to the Notification of Defective Response, applicant filed a request for correction of inventorship under 37 CFR 1.497(d), to add inventor Erik Carlson. In addition to the $130 petition fee, Petitioner provided the statement of the inventor Mr. Carlson in support of the correction of inventorship under 37 CFR 1.497(d) and the written consent of the assignee.

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 Erik Carlson, stating that "[t]hrough no deceptive intention on my part, an error in inventorship occurred in the above referenced application when I was not listed as an inventor". 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 "Consent of Assignee to Correction of Inventorship". The consent was signed by Håkan Korske, Patent Manager for ABB AB. However, Mr. Korske does not provide any evidence that he has the authority to sign for ABB AB. Likewise the Power of Attorney signed by Mr. Korske on behalf of ABB AB is not acceptable because evidence of Mr. Korske's authority to act on behalf of ABB AB has not been provided.

Proof of the person's authority to sign on behalf of the legal entity will be required if that person does not possess apparent authority to sign on behalf of the legal entity. A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the organization is not presumed to be an officer or to have the authority to sign on behalf of the organization. An attorney does not generally have apparent authority to sign on behalf of an organization.

Proof that a person has the authority to sign on behalf of a legal entity may take the form of a copy of a resolution of the board of directors, a provision of the bylaws, or a copy of a paper properly delegating authority to that person to sign the international application on behalf of the legal entity. It is also acceptable to have a person sign on behalf of a legal entity if that person submits a statement that the person has the authority to sign on behalf of the legal entity. This statement should be on a separate paper and must include a clause such as "The undersigned (whose title is supplied below) is empowered to sign the consent on behalf of the applicant."

Finally, pursuant to 37 CFR 1.497(d)(3), a statement under 37 CFR 3.73(b) is required and has not been provided. Thus, Item (3) above has not been satisfied. Accordingly, applicant has not met all of the requirements to add Erik Carlson as co-inventor in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Erik Carlson as an inventor is **DISMISSED WITHOUT PREJUDICE**. Applicant has **TWO (2)** months to file a response. Extensions of time may be obtained under 37 CFR 1.136(a). The application will be held in the PCT Legal Office to await the proper reply.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

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In re Application of
JOHANNESSEN et al.
Application No.: 10/473,733
PCT No.: PCT/SE02/00646
Int. Filing Date: 02 April 2002
Priority Date: 02 April 2001
Attorney Docket No.: 19387.009283
For: INDUSTRIAL ROBOT

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Defective Response/ Notification of Missing Requirements" treated as a request to correct inventorship under 37 CFR 1.497(d)(3), filed on 10 June 2004 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Erik Carlson as inventor in the above referenced application. The requisite $130 petition fee was charged to applicant's deposit account per his authorization. The $130 surcharge for filing the declaration after the 30 month period was also paid. Applicant requests a two month extension of time, which is granted.

BACKGROUND

On 13 February 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), was required. On 27 February 2004, in response to the Notification of Missing Requirements, a declaration signed by the inventors named in the published international application and by Erik Carlson was submitted.

On 22 March 2004, a Notification of Defective Response was mailed to applicant indicating that the declaration was not executed in accordance with either 37 CFR 1.66 or 1.68; that is Erik Carlson did not appear as an inventor on the published application.

On 10 June 2004, in response to the Notification of Defective Response, applicant filed a request for correction of inventorship under 37 CFR 1.497(d), to add inventor Erik Carlson. In addition to the $130 petition fee, Petitioner provided the statement of the inventor Mr. Carlson in support of the correction of inventorship under 37 CFR 1.497(d) and the written consent of the assignee.

On 23 July 2004, a decision was mailed to applicant dismissing the request for correction under 37 CFR 1.497(d) because the "Consent of Assignee to Correction of Inventorshipprovided by applicant was not presented with evidence that Mr. Korske had the authority to sign for ABB AB. Likewise the Power of Attorney signed by Mr. Korske on behalf of ABB AB was not acceptable because evidence of Mr. Korske's authority to act on behalf of ABB AB had not been

provided.

On 31 August 2004, applicant filed a Response to Decision on Petition to Correct Inventorship.

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 have previously satisfied Items (1) and (2) above. Item (3) above is satisfied with the submission "Consent of Assignee to Correction of Inventorship" signed by Catarina Forssén, Patent Attorney for ABB AB. Ms. Forssén states that she has authority to sign on behalf of the legal entity, ABB AB. A Power of Attorney accompanied the response.

Accordingly, applicant has met all of the requirements of 37 CFR 1.497(d) to add Erik Carlson as co-inventor in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Erik Carlson as an inventor is **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 **27 February 2004.**

Cynthia M. Kratz
Attorney Advisor
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28 JUL 2004
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In re Application of: ENDRESEN, Jan, et al.	:	
U.S. Application No.: 10/473,744	:	DECISION ON PETITION TO
PCT No.: PCT/SE02/00644	:	CORRECT INVENTORSHIP
International Filing Date: 02 April 2002	:	
Priority Date: 02 April 2001	:	
Attorney's Docket No.: 19387.0076	:	
For: AN INDUSTRIAL ROBOT	:	

This decision is issued in response to the "Statement Regarding Inventorship" filed 27 May 2004, treated herein under 37 CFR 1.497(d). Deposit Account No. 22-0261 will be charged the $130 fee required under 37 CFR 1.497(d).

BACKGROUND

On 02 April 2002, applicants filed international application PCT/SE02/00644 which claimed a priority date of 01 April 2001 and which designated the United States. On 10 October 2002, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB"). The published international application identified three inventors: Jan ENDRESEN, Erik CARLSON, and Svein JOHANNESSEN. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 02 October 2003.

On 02 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 23 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 05 March 2004, applicants filed a response to the Notification Of Missing Requirements that included a declaration executed by the three inventors of record and an additional person, Ralph SJOBERG.

On 24 March 2004, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) indicating that the filed declaration was defective because the four inventor listed (Ralph SJOBERG) was not identified on the international application.

On 27 May 2004, applicants filed the petition considered herein, which seeks to correct the inventorship so as to add Ralph SJOBERG as an inventor of record. The submission included payment for the required two-month extension of time to respond to the Notification Of Missing Requirements.

DISCUSSION

As noted above, the present submission seeks to add an inventor to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d).

37 CFR 1.497(d) states:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(I); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

Applicants' 27 May 2004 submission satisfies the requirements of 37 CFR 1.497(d)(1) and (2). However, applicants have not satisfied 37 CFR 1.497(d)(3). The submission includes a statement of consent from the purported assignee, ABB AB, and this statement refers to an attached assignment. However, no assignment is present in the application file. Because applicants have not submitted a copy of the assignment, or provided a specific reference to a previously recorded assignment, the purported consent of the assignee does not conform to the requirements of 37 CFR 1.497(d)(3) and 3.73(b). In order to satisfy item (3), applicants must provide the written consent of the assignee in the proper form (see MPEP § 324 with respect to the form of appearance required by the assignee under 37 CFR 3.73).

Because applicants have failed to satisfy all the requirements of 37 CFR 1.497(d), the request to correct inventorship cannot be granted at this time. The declaration filed on 05 March 2004 is therefore defective for failure to properly identify the inventors of record.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The declaration filed on 05 March 2004 remains defective. In order to make the change of inventorship required to render the declaration acceptable, applicants must submit the materials required by 37 CFR 1.497(d)(3), as discussed above.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to file a timely and proper response will result in abandonment of the application.

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

26 AUG 2004

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#10

Eric J. Franklin
VENABLE LLP
575 7th Street, NW
Washington, DC 20004

In re Application of: ENDRESEN, Jan, et al.	:	
U.S. Application No.: 10/473,744	:	DECISION ON RENEWED
PCT No.: PCT/SE02/00644	:	PETITION TO CORRECT
International Filing Date: 02 April 2002	:	INVENTORSHIP
Priority Date: 02 April 2001	:	
Attorney's Docket No.: 19387.0076	:	
For: AN INDUSTRIAL ROBOT	:	

In a decision mailed by this Office on 28 July 2004, applicants' petition to correct inventorship under 37 CFR 1.497(d) was dismissed for failure to satisfy all the requirements of a grantable request. Specifically, applicant had not provided a copy of the assignment, referred to in the original submission.

On 23 August 2004, applicants filed the "Response To Decision On Petition To Correct Inventorship" considered herein as a renewed petition. The response includes a copy of an assignment of the application from the inventors to ABB AB and a statement of consent to the change in inventorship executed on behalf of the assignee..

Based on this submission, applicants have now satisfied the requirements of 37 CFR 1.497(d). The request to correct inventorship is **GRANTED**.

Ralph SJOBERG is added as applicant/inventor of record for the present application. Based on the addition of this applicant/inventor, the declaration filed on 05 March 2004 is now acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 05 March 2004.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Svein Johannessen	: DECISION ON REQUEST FOR
Patent Number	: 7577497	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/473,744	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1148** 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 SEP 2005

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Edwin V Merkel
Nixon Peabody
Clinton Square
PO Box 31051
Rochester NY 14603

In re Application of	
KOIDE, Shohei et al.	
Application No.: 10/473,770	
PCT No.: PCT/US02/10763	DECISION ON
Int. Filing Date: 04 April 2002	
Priority Date: 04 April 2001	PETITION
Attorney Docket No.: 176/61032	
For: ALPHANUBETA3 INTEGRIN-BINDING POLYPEPTIDE MONOBODIES AND THEIR USE	UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.181(a) to Withdraw Holding of Abandonment," filed on 19 July 2005. It has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 04 April 2002, applicant filed international application PCT/US02/10763, claiming a priority date of 04 April 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, 04 October 2003.

On 01 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 01 March 2004, the Office mailed Notification of Missing Requirements, indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 09 March 2004, applicant submitted a declaration of the inventors.

On 24 November 2004, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of 09 March 2004.

On 22 March 2005, the Office mailed Notification to Comply With Requirements For Patent Application Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922).

On 29 June 2005, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the 22 March 2005 Notification.

On 19 July 2005, applicants submitted the instant petition accompanied by a postcard receipt and a copy of the sequence listing and computer readable format.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by application number, stamped 22 April 2005 and listing an amendment, a sequence listing, computer readable diskette and the required statement. This is adequate evidence that the listed items were received by the Office on 22 April 2005. Applicant indicates that the enclosed are true copies of the 22 April 2005 submissions and the statement is signed by someone registered to practice before the Office. The sequence listing, amendment, statement and computer readable form are accepted as having been received on 22 April 2005.

CONCLUSION

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

The Notice of Abandonment (Form PCT/DO/EO/909) mailed 29 June 2005 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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OFFICE OF PETITIONS

DOV ROSENFELD
5507 COLLEGE AVENUE
SUITE 2
OAKLAND CA 94618

In re Application of :
David S. McGrath :
Application No. 10/473,800 : ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. LAKE036 :

This is a decision on the petition, filed December 19, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of the filing of a continuing application.

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

Karen Creasy
Petitions Examiner
Office of Petitions

12 MAR 2004

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

In re Application of	:	
PRADIER, Jean-Clair et al.	:	
Application No.:10/473,808	:	
PCT Application No.: PCT/FR02/01074	:	DECISION ON
International Filing Date: 27 March 2002	:	
Priority Date: 29 March 2001	:	PETITION
Attorney Docket No.: 0512-1182	:	
For: INSTALLATION FOR MEASURING PRESSURE OF AT LEAST ONE AEROPLANE WHEEL TYRE	:	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 02 October 2003 is **GRANTED**.

BACKGROUND

On 27 March 2002, applicant filed international application number PCT/FR02/01074. This application claims priority of a French application that was filed on 29 March 2001. A copy of the international application was transmitted by the International Bureau on 10 October 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 29 September 2003.

On 02 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive including an authorization to charge Deposit Account No. 25-0120 the $1,330 petition fee and a check in the amount of $1,180 covering multiple fees, including the basic national fee, the surcharge for a late declaration or oath, and the processing fee for a late English translation of the international application.

On 15 October 2003, the USPTO Finance Division successfully charged the $1,330 petition fee to the deposit account mentioned above.

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 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 an English-language translation of the international application are due.

for

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

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

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MAR 3 0 2007

OFFICE OF PETITIONS

In re Application of :
Maeda, et al. :
Application No. 10/473,818 : ON PETITION
Filed: October 2, 2003 :
Attorney Docket No. 2003_1393A :
For: INFORMATION PROCESSING APPARATUS, MEMORY MANAGEMENT APPARATUS, MEMORY MANAGEMENT METHOD, AND INFORMATION PROCESSING METHOD

This is a decision on the petition under 37 CFR 1.181, filed March 14, 2007, to withdraw the holding of abandonment in the above-identified application.

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

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the July 24, 2006 final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on October 25, 2006. A Notice of Abandonment was mailed on February 1, 2007.

Petitioners allege that the July 24, 2006 final Office action 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]

A review of the record indicates no irregularity in the mailing of the July 24, 2006 final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner did not include a statement that a fruitless search of the **file jacket** was conducted. The term "relevant records of his office" is not viewed the same as the term "file jacket".

Petitioners have not provided adequate evidence of non-receipt. The petition 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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of :
Maeda, et al. :
Application No. 10/473,818 :
Filed: October 2, 2003 :
Attorney Docket No. 2003_1393A :
For: INFORMATION PROCESSING APPARATUS, MEMORY MANAGEMENT APPARATUS, MEMORY MANAGEMENT METHOD, AND INFORMATION PROCESSING METHOD

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.181, filed May 30, 2007, to withdraw the holding of abandonment in the above-identified application.

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

The Office contended that the above-identified application became abandoned for failure to submit a reply to the July 24, 2006 final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on October 25, 2006. A Notice of Abandonment was mailed on February 1, 2007.

Petitioners allege that the July 24, 2006 final Office action 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]

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2163 for re-mailing the final Office action of July 24, 2006. The period for reply will run from the mailing date of the Office action.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

01 MAR 2005

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Eric J. Franklin
Venable LLP
Post Office Box 34385
Washington, D.C. 20043-9998

In re Application of :
KADDANI et al. :
Application No.: 10/473,819 :
PCT No.: PCT/SE02/00648 : DECISION ON
Int. Filing Date: 28 March 2002 : PAPERS UNDER 37 CFR 1.42
Priority Date: 02 April 2001 :
Attorney Docket No.: 19387.0074 :
For: AN ARC WELDING METHOD

This decision is in response to applicant's "Request for Reconsideration" filed 08 December 2004, which is being treated a renewed request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/SE02/00648, which claimed a priority date of 02 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 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, 02 October 2003.

On 02 October 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 09 March 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 09 July 2004, applicants filed a request under 37 CFR 1.42. The declaration filed with the present request was executed by: Ulrike Windecker; Dick Skarin; Pavel Lemarinier; Said Zahrai; and Chun-Yuan Gu as joint inventors and Pascale Ruault-Kaddani on behalf of deceased inventor, Ahmed Kaddani. In a decision dated 26 August 2004, applicants', request was dismissed because the declaration was defective under 37 CFR 1.497(b) and MPEP 201.03(II)(B).

On 26 October 2004, applicants filed a "Request for Reconsideration." In a decision dated 26 August 2004, applicants', request was dismissed because the declaration was defective under 37 CFR 1.497(b) and MPEP 201.03(II)(B).

On 08 December 2004, applicants filed a (second) "Request for Reconsideration."

DISCUSSION

As stated in previous decision, a review of the declaration filed on 08 December 2004 reveals that the declaration is not in an acceptable form. Applicants state "the declaration previously submitted listed the complete inventive entity. . .and that the declaration was constructed from numerous complete declaration or that the inventors forwarded to counsel only the signature pages of the declaration." Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

> 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 declaration rather than combined into one declaration.

The composite declaration is defective because it contains duplicate sheets of page 2. In this case, the declaration filed 08 December 2004 included one (1) page 1 of 2 and 8 (eight) duplicate page 2 of 2. Without complete declarations having been filed, it is not clear what the inventors signed. It would appear that the inventors were only presented with the signature page. In which case, the declaration would not properly identify the specification to which it is directed to nor could it contain the averments required under 37 CFR 1.497. Since all inventors did not execute one declaration, the declaration must be submitted as individual declarations rather than combined into one declaration. Therefore, the declaration is defective under 37 CFR 1.497.

CONCLUSION

For the above reasons, the renewed 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 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
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Tel: (571) 272-3298
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#12

16 MAR 2005

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Washington, D.C. 20043-9998

In re Application of :
KADDANI et al. :
Application No.: 10/473,819 :
PCT No.: PCT/SE02/00648 : DECISION ON
Int. Filing Date: 28 March 2002 : PAPERS UNDER 37 CFR 1.42
Priority Date: 02 April 2001 :
Attorney Docket No.: 19387.0074 :
For: AN ARC WELDING METHOD

This decision is in response to applicants' "Renewed Request for Reconsideration" filed 07 March 2005, which is being treated a renewed request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/SE02/00648, which claimed a priority date of 02 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 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, 02 October 2003.

On 02 October 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 09 March 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 09 July 2004, applicants filed a request under 37 CFR 1.42. The declaration filed with the present request was executed by: Ulrike Windecker; Dick Skarin; Pavel Lemarinier; Said Zahrai; and Chun-Yuan Gu as joint inventors and Pascale Ruault-Kaddani on behalf of deceased inventor, Ahmed Kaddani. In a decision dated 26 August 2004, applicants', request was dismissed because the declaration was defective under 37 CFR 1.497(b) and MPEP 201.03(II)(B).

On 26 October 2004, applicants filed a "Request for Reconsideration." In a decision dated 08 November 2004, applicants', request was dismissed because the declaration was defective under 37 CFR 1.497(a)-(b) and MPEP 201.03(II)(B).

On 08 December 2004, applicants filed a (second) "Request for Reconsideration." In a decision dated 01 March 2005, applicants', request was dismissed because the declaration was defective under 37 CFR 1.497(a)-(b) and MPEP 201.03(II)(B).

On 07 March 2005, applicants filed a "Renewed Request for Reconsideration."

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed on 07 March 2005 is executed by Pascale Ruault-Kaddani as the "legal representatives" of the deceased inventor, Ahmed Kaddani. Counsel avers that deceased inventor's citizenship, address and post office address and the citizenship, address and post office address of the deceased inventor's legal representative are the same. 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 28 March 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **07 March 2005**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

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

26 AUG 2004

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Venable LLP
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Washington, D.C. 20043-9998

In re Application of :
KADDANI et al. :
Application No.: 10/473,819 :
PCT No.: PCT/SE02/00648 : DECISION ON
Int. Filing Date: 28 March 2002 : PAPERS UNDER 37 CFR 1.42
Priority Date: 02 April 2001 :
Attorney Docket No.: 19387.0074 :
For: AN ARC WELDING METHOD

This decision is in response to the declaration filed 09 July 2004, which is being treated a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/SE02/00648, which claimed a priority date of 02 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 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, 02 October 2003.

On 02 October 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 09 March 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 09 July 2004, applicants filed the present request under 37 CFR 1.42. The declaration filed with the present request was executed by: Ulrike Windecker; Dick Skarin; Pavel Lemarinier; Said Zahrai; and Chun-Yuan Gu as joint inventors and Pascale Ruault-Kaddani on behalf of deceased inventor, Ahmed Kaddani.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed on 09 July 2004 is executed by Pascale Ruault-Kaddani as the "legal representatives" of the deceased inventor, Ahmed Kaddani. 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(b)(2).

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 09 July 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)(2).

Additionally, a review of the declarations filed on 09 July 2004 reveals that the declaration is not in an acceptable form. Applicant has provided a defective executed composite declaration. A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains duplicate sheets of page 2. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

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 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

08 NOV 2004

#8

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Eric J. Franklin
Venable LLP
Post Office Box 34385
Washington, D.C. 20043-9998

In re Application of :
KADDANI et al. :
Application No.: 10/473,819 :
PCT No.: PCT/SE02/00648 : DECISION ON
Int. Filing Date: 28 March 2002 : PAPERS UNDER 37 CFR 1.42
Priority Date: 02 April 2001 :
Attorney Docket No.: 19387.0074 :
For: AN ARC WELDING METHOD

This decision is in response to the declaration filed 09 July 2004, which is being treated a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 March 2002, applicants filed international application PCT/SE02/00648, which claimed a priority date of 02 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 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, 02 October 2003.

On 02 October 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 09 March 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 09 July 2004, applicants filed the present request under 37 CFR 1.42. The declaration filed with the present request was executed by: Ulrike Windecker; Dick Skarin; Pavel Lemarinier; Said Zahrai; and Chun-Yuan Gu as joint inventors and Pascale Ruault-Kaddani on behalf of deceased inventor, Ahmed Kaddani. In a decision dated 26 August 2004, applicants', request was dismissed because the declaration was defective under 37 CFR 1.497(b) and MPEP 201.03(II)(B).

On 26 October 2004, applicants filed "Request for Reconsideration."

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed on 09 July 2004 is executed by Pascale Ruault-Kaddani as the "legal representatives" of the deceased inventor, Ahmed Kaddani. Counsel avers that, "the residence, citizenship, and post office address of the legal representative of Mr. Kaddani, his widow, Pascale Ruault-Kaddani, who had the same citizenship, address and post office address of her husband." (The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting above statement regarding legal representative's citizenship, residence, and mailing address as referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63.) Therefore, the declaration is acceptable under 37 CFR 1.42

As stated in previous decision, a review of the declarations filed on 09 July 2004 reveals that the declaration is not in an acceptable form. Applicants state that the declaration is in proper form and that MPEP 201.03(II)(B) does not apply to this situation. Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

> 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 declaration rather than combined into one declaration.

Here, the composite declaration is defective because it contains duplicate sheets of page 2. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. As stated above, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03(II)(B) Oath or Declaration.)

CONCLUSION

For the above reasons, the renewed request for status under 37 CFR 1.42 is **REFUSED**.

Since the response filed 26 October 2004 appears to be a bona fide response to the Decision mailed 26 August 2004, applicants are hereby given **ONE MONTH** from the mail date of this Decision to file the proper response. The proper response would be a declaration

in compliance with 37 CFR 1.497(a)-(b) executed by all of the named inventors. No extensions of this time limit may be obtained under 37 CFR 1.136(a), but the period for response set forth in the Decision on Request mailed 26 August 2004 may be extended up to a maximum of five months.

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
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Gerard SOULA, et al. :
Application No. 10/473,821 : DECISION ON PETITION
Filed: February 20, 2004 :
Attorney Docket No. 022290.0115PTUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 05, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 19, 2007, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; 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 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
Paralegal Specialist
Office of Petitions

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K&L Gates LLP
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON, MA 02111-2950

Mail Date: 04/21/2010

Applicant	: James Browning	: DECISION ON REQUEST FOR
Patent Number	: 7594921	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/473,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Application of
Laermer
Application No. 10/473,831
PCT App. No: PCT/DE02/02363
Int. Filing Date: 28 June 2002
Attorney Docket No. 10191/1628
Title: Method For Anisotropic Plasma Etching Of Semiconductors

DECISION ON

PETITION UNDER

37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 14, 2005, 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.[1]

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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

---

[1]For future reference, petitioner is advised to file a petition as a separate paper, and not incorporated into the "Remarks" portion of a reply to an Office action, to minimize delays.

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 applications has been included in an amendment to the first sentence of the specification following the title (filed on December 14, 2005), as provided by 37 CFR 1.78(a)(2)(iii); (2) the petition included authorization to charge the surcharge fee required by 37 CFR 1.17(t) to counsel's Deposit Account No. 11-0600; and (3) the petition contains a statement that "The delay in making this claim was unintentional." 37 CFR 1.78(a)(3) requires 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. Since the statement contained in the petition varies from the required language, the statement will be construed as the statement required by 37 CFR 1.78(a)(3). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition. 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 applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 George Dombroske at (571) 272-3283. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
tel: (571) 272-3283
fax: (571) 273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/473,831	03/31/2004	1765	1084	10191/3212	4	23	1

CONFIRMATION NO. 5019

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

CORRECTED FILING RECEIPT

OC000000022188761

Date Mailed: 01/26/2007

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

Applicant(s)

Franz Laermer, Weil Der Stadt, GERMANY;

Power of Attorney:

Richard Mayer--22490

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DE02/02363 06/28/2002
and is a CON of 09/720,758 12/28/2000 PAT 6,720,268
which is a 371 of PCT/DE00/01296 04/26/2000

Foreign Applications

GERMANY 101 45 297.7 09/14/2001
GERMANY 199 19 832.2 04/30/1999

If Required, Foreign Filing License Granted: 01/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/473,831

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for etching structures in an etching body by means of a plasma

Preliminary Class

216

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).

#5

30 AUG 2004

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Kurt L. Van Voorhies
Dinnin & Dunn, P.C.
2701 Cambridge Court, Suite 500
Auburn Hills, MI 48326

In re Application of	:	
MICHENER et al.	:	
Application No.: 10/473,842	:	
PCT No.: PCT/US02/10353	:	DECISION ON PETITION
Int. Filing Date: 01 April 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 30 March 2001	:	
Attorney Docket No.: 6004-00001	:	
For: TRUSTED AUTHORIZATION DEVICE	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 12 August 2004 to accept the application without the signature of joint-inventor, Paul F. Ryan. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 01 April 2002, applicants filed international application PCT/US02/10353 which claimed a priority date of 30 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, 30 September 2003.

On 30 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 12 February 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 1.492(a) and (b).

On 12 August 2004, applicants filed a Petition under 37 CFR 1.47(a) and a petition for 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(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 applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Paul F. Ryan. The steps taken by Kurt L. Van Voorhies are sufficient to show that Paul F. Ryan 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, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 01 April 2002 under 35 U.S.C. 363, and will be given a date of **12 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

30 AUG 2004

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Paul Ryan
125A Clubhouse Drive, Unit #9
Leesburg, VA 20167

In re Application of
MICHENER et al.
Application No.: 10/473,842
PCT No.: PCT/US02/10353
Int. Filing Date: 01 April 2002
Priority Date: 30 March 2001
Attorney Docket No.: 6004-00001
For: TRUSTED AUTHORIZATION DEVICE

Dear Mr. Ryan:

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

Kurt L. Van Voorhies
Dinnin & Dunn, P.C.
2701 Cambridge Court, Suite 500
Auburn Hills, MI 48326

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known addresses of the non-signing inventor. The inventor whose signature is missing (Paul F. Ryan) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US02/10353 and was filed on 01 April 2002 in the names of John R. Michener and Paul F. Ryan for the invention entitled Trusted Authorization Device. The national stage application number is 10/473,842 and has a 35 U.S.C. 371 date of 12 August 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 17, 2006

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/473843 Patent No.: 6,997,648

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE **Art Unit** 3673

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARRINGTON & SMITH, PC
4 RESEARCH DRIVE, Suite 202
SHELTON CT 06484-6212

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard L. CROYLE et al.	:	
Application No. 10/473,846	:	DECISION ON PETITION
Filed: October 31, 2005	:	
Attorney Docket No. 064311-2001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2009, to revive the above-identified design application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 11, 2009 as required by the Notice of Allowance and Fee(s) Due, mailed August 11, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 12, 2009

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 $1,510.00 and publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Hideo Yokota	: DECISION ON REQUEST FOR
Patent Number	: 7595286	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/473,863	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **459** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/18/2010

Applicant : Hideo Yokota
Patent Number : 7595286
Issue Date : 09/29/2009
Application No: 10/473,863
Filed : 10/03/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **540** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

JOHN P. DE LUCA
17420 RYEFIELD CT.
DICKERSON MD 20842

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of :
Mascitelli et. al. : ON APPLICATION
Application No. 10/473,880 : FOR
Filed: October 2, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 66309-186 :

This is a decision on the "REQUEST FOR CORRECTION TO PTA" filed July 26, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of three hundred sixty-five (365) days be extended to four hundred twenty-seven (427) days.

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

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:
>
> (1) The fee set forth in § 1.18(e) ...

The instant request was timely filed after the mailing of the notice of allowance and prior to payment of the issue fee. However, neither the fee under § 1.18(e) nor a general authorization to charge the required fee accompanied the request. (The general authorization to charge any required fee extended only to fees under §§ 1.16 or 1.17). Accordingly, the

request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

It is appropriate to advise applicants that any application for patent term adjustment should include a showing as to the Office error in mailing the Office on October 12, 2006 to the then correspondence address of record.

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

7-30-09

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,331,943
Ser. No. : 10/473,880
Inventor(s) : Alessandro Mascitelli
Title : INJECTION NEEDLE, MORE PARTICULARLY FOR SCLEROTHERAPHY

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.

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: (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.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

John P. DeLuca
17420 Ryefield CT
Dickerson, MD 20842

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

JOHN P. DELUCA
17420 RYEFIELD CT.
DICKERSON MD 20842

In re Patent No. 7,331,943 :
Issue Date : February 19,2008 :
Application No. 10/473,880 : ON PETITION
Filed: October 2, 2003 :
Attorney Docket No. 66309-186 :

This is a decision on the petition, filed August 7, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the assignee's information is **PENTAFERTE SPA, LOCALITA NOCELLA, CAMPLI (TE), ITALY** and that the assignee's information was omitted from Part B - Fee(s) Transmittal form at the time of payment of the issue fee.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent, as required by 3.81(b). *See also* MPEP 1481.01.

---

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

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Inquiries concerning this decision should be directed to Diane C. Goodwyn at (571) 272-6735. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

JOHN P. DELUCA
17420 RYEFIELD CT.
DICKERSON MD 20842

In re Patent No. 7,331,943	:	
Issue Date: February 19, 2008	:	
Application No. 10/473,880	:	ON PETITION
Filed: October 2, 2003	:	
Attorney Docket No. 66309-186	:	

This is a decision on the petition dated December 8, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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ARKEMA INC.
PATENT DEPARTMENT - 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA, PA 19103-3222

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OFFICE OF PETITIONS

In re Application of :
Christian Bonardi, et. al. :
Application No. 10/473,891 : ON PETITION
Filed: October 2, 2003 :
Attorney Docket No. FR-AM1756 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed December 3, 2004.

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

The Office acknowledges receipt of a Terminal Disclaimer with the $130 fee filed on July 19, 2005.

The application file is being referred to Technology Center Art Unit 1713 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Bergqvist :
Application No. 10/473,913 : DECISION
Filed: 3 October, 2003 :
Attorney Docket No. 16678-0002US1 :

This is a decision on the petition, filed on 10 September 2008, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are required here.)

It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition lacks a satisfactory showing/statement of unintentional delay.

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the final Office action mailed on 30 November, 2006, with reply due absent an extension of time on or before 28 February, 2007.

The application went abandoned after midnight 28 February, 2007.

The Office mailed the Notice of Abandonment on 9 July, 2007.

On 10 September, 2008, Petitioner filed the instant petition with fee, avers a reply in the form of a continuation in part, however, Petitioner fails to demonstrate/show that the failure to file the instant petition for more than 18 months after abandonment and more than 14 months after Notice thereof is, in fact, unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55440-1022

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Bergqvist :
Application No. 10/473,913 : DECISION
Filed: 3 October, 2003 :
Attorney Docket No. 16678-0002US1 :

This is a decision on the petition, filed on 14 January, 2009, to revive under 37 C.F.R. §1.137(b) and alleging abandonment due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the final Office action mailed on 30 November, 2006, with reply due absent an extension of time on or before 28 February, 2007.

The application went abandoned after midnight 28 February, 2007.

The Office mailed the Notice of Abandonment on 9 July, 2007.

On 10 September, 2008, Petitioner filed a petition with fee, avers a reply in the form of a continuation in part, however, Petitioner failed to demonstrate/show that the failure to file the instant petition for more than 18 months after abandonment and more than 14 months after Notice thereof is, in fact, unintentional delay. The petition was dismissed on 1 December, 2008.

On 14 January, 2009, Petitioner filed a petition (with fee paid previously) pursuant to 37 C.F.R. §1.137(b) averring unintentional delay, and from the outset argued—rather than demonstrated with a factual showing—that the more than eighteen- (18-) month delay from abandonment (after midnight 28 February, 2007) until the filing of a petition (on 10 September, 2008) was unintentional delay. Petitioner mistakes argument for proof/evidence. Moreover:

- while Petitioner's firm controlled the application at the time it went abandoned, there was no indication that in the absence of inquiry Petitioner was in a position to make the statement of unintentional delay; and

- for a second time Petitioner did not make the express regulatory statement of unintentional delay.

Thus, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] *In the event that such an inquiry has not been made, Petitioner* ***must*** *make such an inquiry. If such inquiry results in the discovery that 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 C.F.R. §1.137(b) was unintentional, Petitioner* ***must*** *notify the Office.*

In addition, the regulations at 37 C.F.R. §1.137(b)(3) require a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement is being construed as the required statement. Petitioner ***must*** *notify the Office if this is* ***not*** *a correct reading of the statement appearing in the petition.*

The record herein (including the petitions filed on 10 September, 2008, and 14 January, 2009) does not necessitate a finding that the delay between midnight 28 February, 2007 (date of abandonment), and 14 January, 2009 (date of filing of grantable petition), was not unintentional.

---

[1] See 37 C.F.R. §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).

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/ Counsel Hwa C. Lee (Reg. No. 59,747) when accepting Petitioner's representation that the delay in filing the response was unintentional.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[5]))

As to Allegations of Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

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[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **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 Application No. 11/739,585.

The instant application is released to the Technology Center/AU 3635 for such processing as necessary in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of :
Gerald Williams et al :
Application No. 10/473,921 : ON PETITION
Filed: October 3, 2003 :
Attorney Docket No. 46309-292863 :

This is a decision on the petition, filed May 10, 2007, and resubmitted on May 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2618 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).

06 MAY 2004

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Brett A. Valiquet
Schiff, Hardin & Waite
Patent Department
6600 Sears Tower
Chicago, Illinois 60606-6473

In re Application of :
PETZ :
U.S. Application No.: 10/473,927 : DECISION ON PETITION
PCT No.: PCT/EP02/03754 :
Int. Filing Date: 04 April 2002 : UNDER 37 CFR 1.182
Priority Date: 06 April 2001 :
Attorney's Docket No.: P03,0385 :
For: METHOD, SYSTEM AND COMPUTER :
PROGRAMME FOR THE GENERATION OF AN :
ELECTRONIC DOCUMENT FROM SCANNED :
IMAGE DATA :

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.182 Concerning Change of Name After Filing of Application" filed 12 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 04 April 2002, applicant filed international application PCT/EP02/03754, which claimed priority of an earlier application filed 06 April 2001. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 17 October 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 06 October 2003.

On 03 October 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 copy of the International Search Report and a First preliminary amendment. Applicant did not file an executed oath or declaration of the inventor.

On 04 March 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 executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was further advised of the need to provide an English

translation of the filed drawings. Applicant was also informed of the need to provide $260.00 as payment of the appropriate surcharges and processing fees. 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 12 April 2004, applicant filed the present petition; an executed combined declaration and power of attorney signed by Petra Petz; a explanation from counsel regarding the name and signature of inventor Petra Petz (nee Wegele) and a separate declaration regarding the name change executed by inventor Petra Petz (nee Wegele).

DISCUSSION

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; namely by marriage. The declaration is executed by Mrs. Petz using her current married name and her maiden name. As such, it is appropriate to grant applicant's petition at this time. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Petra Wegele to Petra Petz is **GRANTED**.

As authorized the $130.00 petition fee will be deducted from Deposit Account No.: 50-1519.

The application has an international filing date of 04 April 2002 under 35 U.S.C. 363 and will be given a date of **12 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 Branch of the International Division for continued national stage processing.

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
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www.uspto.gov

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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OFFICE OF PETITIONS

In re Application of :
LAAKSONEN, KARI :
Application No. 10/473,935 :
Filed: 03/15/2004 :
Attorney Docket No. ETF0172US :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (feeless), filed April 20, 2009, to withdraw the holding of abandonment in the above-identified application.

This application was held abandoned for failure to submit a timely and proper response to the final Office action, mailed July 22, 2008, which set a three-month shortened statutory period for reply. In the absence of a timely and proper response, the application was held abandoned on October 23, 2008. On February 13, 2009, the Office mailed a Notice of Abandonment.

Petitioners submitted the present petition under 37 CFR 1.181 and a reply to the outstanding final Office action in the form of an amendment. In the petition, the practitioner asserts that the firm did not receive the final Office at the correspondence address of record. Accordingly, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Office action and restore the application to pending status.

A review of the written record indicates an irregularity in the mailing of the final Office action. On April 16, 2008, prior to the mailing of the final Office action, the USPTO received a revocation of power of attorney, an appointment of a new power of attorney, and request to change the correspondence address of record to the address associated with Customer Number 23413. The USPTO records were not timely updated to reflect this new appointment of power of attorney or the change of correspondence address. Consequently, the USPTO mailed the final Office action to an incorrect address.

Nevertheless, the Office must determine whether the application is, in fact, abandoned. Where there is no dispute as to whether an application is abandoned because no disagreement exists regarding the sufficiency of the reply or controlling dates, the filing of a petition under 37 CFR 1.181(a) to withdraw

the holding of abandonment would be inappropriate. See MPEP 711.03(c)(I). However, a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c)(I).

Upon reviewing petitioners' response to the final Office action, the Examiner has issued an Advisory Action Before the Filing of an Appeal Brief, which is enclosed. As stated in the Advisory Action, petitioners' reply filed on May 28, 2009, fails to place this application in condition for allowance. A response to a final Office action may be entered if it places the application in condition for allowance. However, the admission or refusal to admit an amendment after a final rejection will not operate to relieve the application from its condition. Further, the entry of an amendment after a final rejection is not a matter of right.

It is regrettable that the Office did not mail an Advisory Action until the date of this decision; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment is filed after a final Office action. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[1] The mere filing of an amendment in response to a final Office action does not save the application from abandonment. Rather, the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application in response to a final rejection guarantees the pendency of the application.

The application is currently abandoned due to petitioners' failure to submit a proper response to the final Office action. Under the circumstances of this case, the application did not become abandoned due to a delay in reviewing the amendment or the mailing of the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. The application will remain abandoned until petitioners file a petition to revive the application (accompanied by the appropriate petition fee).

The Office encourages petitioner to file a petition under 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action;

(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 was unintentional.

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[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone 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

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/473,935	Applicant(s) LAAKSONEN, KARI	
	Examiner ALICIA CHEVALIER	Art Unit 1794	

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

THE REPLY FILED 28 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation Sheet

Continuation of 11. because: It remains the Examiner's position that the claims is unpatentable for reasons previously of record in the final office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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

/Alicia Chevalier/
Primary Examiner, Art Unit 1794
12/3/09

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/473,935	Applicant(s) LAAKSONEN, KARI	
	Examiner ALICIA CHEVALIER	Art Unit 1794	

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

THE REPLY FILED 28 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
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   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

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AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation Sheet

Continuation of 11. because: It remains the Examiner's position that the claims is unpatentable for reasons previously of record in the final office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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/Alicia Chevalier/
Primary Examiner, Art Unit 1794
12/3/09

UNITED STATES PATENT AND TRADEMARK OFFICE

09 JAN 2006

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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

In re Application of	:	
MÜLLER, Burkhard	:	
Application No.: 10/473,940	:	DECISION ON
PCT No.: PCT/DE02/01379	:	
Int. Filing Date: 12 April 2002	:	PETITION
Priority Date: 12 April 2001	:	
Attorney Docket No.: 15436.274.2A.1	:	UNDER 37 CFR 1.47(b)
For: ADJUSTMENT METHOD, ... AND CORRESPONDING ACTUATOR	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.47(b)," filed in the United States Patent and Trademark Office on 23 June 2005.

BACKGROUND

On 12 April 2002, applicant filed international application PCT/DE02/01379, claiming a priority date of 12 April 2001. A copy of the international application was transmitted to the Office by the IB on 24 October 2002. The deadline for entry into the national stage in the United States was midnight, 12 October 2003.

On 03 October 2003, applicant submitted a transmittal letter for entry into the National Stage in the United States, accompanied by the basic national fee.

On 23 November 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 23 June 2005, applicant the instant petition under 37 CFR 1.47(b), accompanied by the fee for a five month extension of time.

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.

Items (1), (3), (4) and (6) are satisfied. The balance of the petition fee will be charged to applicant's deposit account, as authorized. Applicant states the last known address of Mr. Müller as Brunhamstrasse 42, 81249 Munich, Germany. The declaration complies with 37 CFR 1.47(b) and 37 CFR 1.497(a)-(b). Applicant has shown irreparable harm.

Item (2) has not been satisfied. Applicants allege that they have been unable to locate Mr. Müller after a diligent effort. Applicants indicate that Mr. Müller may have changed his name. In their statements, Ms. Linda Clark and Ms. Melanie Parker indicate that they each conducted various internet searches for the missing inventor. However, they do not indicate under which name(s) they searched and they did not attach copies of documentary evidence to their statements, such as printouts of the results of their internet searches.

Item (5) has not been satisfied. Applicants have not demonstrated sufficient proprietary interest. Applicants have attempted to demonstrate a transfer of this application from AIFOtec AG Fiberoptics to CGM GMBH to Finisar Europe to Finisar Corporation. However, applicants have not provided an assignment executed by the inventor. In the absence of an assignment, proprietary interest may be demonstrated by an appropriate legal memorandum, as set forth in MPEP 409.03(f):

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

CONCLUSION

For the above reasons, applicant's 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. 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(b)".

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

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#12

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31 JUL 2006

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

In re Application of	:	
MÜLLER, Burkhard	:	
Application No.: 10/473,940	:	DECISION ON
PCT No.: PCT/DE02/01379	:	
Int. Filing Date: 12 April 2002	:	PETITION
Priority Date: 12 April 2001	:	
Attorney Docket No.: 15436.274.2A.1	:	UNDER 37 CFR 1.47(b)
For: ADJUSTMENT METHOD, ... AND CORRESPONDING ACTUATOR	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)," filed in the United States Patent and Trademark Office on 08 March 2006.

BACKGROUND

On 09 January 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 08 March 2006, applicant submitted the instant renewed petition, accompanied by a declaration executed by Burkhard Seitz.

DISCUSSION

Applicant has supplied a declaration executed by Burkhard Seitz. The inventor listed in the international application is Burkhard Müller. Burkhard Seitz wrote "born Müller" on the declaration. Further, applicant indicates in the petition that the inventor's name has changed. To change the name of an inventor listed in the international application, applicant must supply a petition under 37 CFR 1.182, as set forth in MPEP 605.04(c).

Applicant supplied an authorization to charge the fee for the 1.47 petition for a second time. The petition fee was previously paid and a second fee is not required for a renewed petition.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.182 to correct the inventor's name is required within **TWO (2) MONTHS** of the mail date of this decision. This time period for response is extendable under 37 CFR 1.136(a). Failure to timely response will result in the abandonment of this application.

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

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WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
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SALT LAKE CITY UT 84111

In re Application of	:	
MÜLLER, Burkhard	:	
Application No.: 10/473,940	:	DECISION ON
PCT No.: PCT/DE02/01379	:	
Int. Filing Date: 12 April 2002	:	PETITION
Priority Date: 12 April 2001	:	
Attorney Docket No.: 15436.274.2A.1	:	UNDER 37 CFR 1.47(b)
For: ADJUSTMENT METHOD, ... AND CORRESPONDING ACTUATOR	:	

This decision is in response to applicant's Petition Under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 02 October 2006.

BACKGROUND

On 28 July 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition as moot and requiring a petition under 37 CFR 1.182 to correct the inventor's name.

On 02 October 2006, applicant submitted this petition, accompanied German language documentation of the inventor's name change.

DISCUSSION

Applicant has supplied a declaration executed by Burkhard Seitz. The inventor listed in the international application is Burkhard Müller. Burkhard Seitz wrote "born Müller" on the declaration. Further, applicant indicates in the petition that the inventor's name has changed. To change the name of an inventor listed in the international application, applicant must supply a petition under 37 CFR 1.182, as set forth in MPEP 605.04(c).

Under 605.04(c), applicant can either provide a statement from the inventor stating that the inventor's name has changed and explaining the method of change or applicant can provide a copy of the court order in which the change was made. Applicant has provided a copy of the court order, but the order is in German and a translation has not been furnished.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If applicants desire reconsideration on the merits, a renewed petition under 37 CFR 1.182 to correct the inventor's name is required within **TWO (2) MONTHS** of the mail date of this decision. This time period for response is extendable under 37 CFR 1.136(a). Failure to timely response will result in the abandonment of this application.

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

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25 AUG 2008

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In re Application of	:	
MÜLLER, Burkhard	:	
Application No.: 10/473,940	:	DECISION ON
PCT No.: PCT/DE02/01379	:	
Int. Filing Date: 12 April 2002	:	PETITION
Priority Date: 12 April 2001	:	
Attorney Docket No.: 15436.274.2A.1	:	UNDER 37 CFR 1.182
For: ADJUSTMENT METHOD, ... AND CORRESPONDING ACTUATOR	:	

This decision is in response to applicant's Petition Under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 05 March 2007 and applicant's Petition Under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 23 June 2008.

BACKGROUND

On 29 January 2007, the Office mailed Decision On Petition Under 37 CFR 1.182, dismissing applicant's petition to correct the inventor's name and setting a two month period for reply.

On 05 March 2007, applicant filed a renewed petition under 37 CFR 1.182 to correct the inventor's name.

On 14 November 2007, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the 29 January 2007 decision.

On 23 June 2008, applicant submitted a petition to withdraw the holding of abandonment.

DISCUSSION

The Office is in receipt of the 05 March 2007 petition filed by applicant to correct the inventor's name. The Notification of Abandonment (Form PCT/DO/EO/909) issued in error and is hereby vacated.

As set forth in MPEP 605.04(c), applicant can either provide a statement from the inventor stating that the inventor's name has changed and explaining the method of change or

applicant can provide a copy of the court order in which the change was made. Applicant previously provided a copy of the court order and applicant has now provided a translation.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.182 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 November 2007 is **VACATED**.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 10 March 2006.

/Erin P. Thomson/

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17 APR 2006

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Eric l. Maschoff
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Salt Lake City, UT 84111

In re Application of	:	DECISION ON
Burkhard Seitz et al.	:	
PCT No.: PCT/DE02/02143	:	
Application No.: 10/473,941	:	PETITION UNDER
Int. Filing Date: 12 June 2002	:	
Priority Date: 15 June 2001	:	
Attorney's Docket No.: 15436.274.4A.1	:	37 CFR 1.47(a)
For: ADJUSTMENT METHOD, PARTICULARLY...	:	
FOR THE SAME	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.47(a)" submitted on 23 June 2005 that seeks the acceptance of the application without the signature of the inventor Burkhard Muller. Petitioner has submitted the requisite $130 petition fee.

BACKGROUND

On 12 June 2002, applicants filed international application PCT/DE02/02143, which claimed priority of an earlier application filed 15 June 2001.

On 03 October 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). However, no executed declaration or oath was submitted at such time.

On 23 November 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date." The notification set two (2) months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond would result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), petitioner, inter alia, filed on 23 June 2005, a petition under 37 CFR 1.47(a), and an executed Declaration by Klaus STROL and Axel MEHNERT on their behalf and on behalf of the nonsigning inventor Burkhard SEITZ.

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:

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.
>
> 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.

Petitioner has satisfied requirements (1), and (3)-(4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

The averments of petitions are sufficient to support a finding that the nonsigning inventor, Mr. Seitz could not be found after diligent effort. Although, the petition states that an internet search was conducted using **www.yahoo.com** and **www.google.com** under both names Burkhard Muller and Burkhard Seitz (it appears that he changed his name prior to filing the

international application) and he was also searched via a telephone directory, petitioner has not provided copies of these searches to support those assertions.

Consequently, the affidavits fail to show diligent effort to locate inventor Mr. Burkhard Seitz because no proof to corroborate these actions has been provided.

Accordingly, at this time it can not be concluded that the nonsigning Mr. Seitz could not be reached after diligent effort as stipulated under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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24 JAN 2007

#10

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Eric l. Maschoff
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of	:	DECISION ON RENEWED
Burkhard Seitz et al.	:	
PCT No.: PCT/DE02/02143	:	
Application No.: 10/473,941	:	PETITION UNDER
Int. Filing Date: 12 June 2002	:	
Priority Date: 15 June 2001	:	
Attorney's Docket No.: 15436.274.4A.1	:	37 CFR 1.47(a)
For: ADJUSTMENT METHOD, PARTICULARLY...	:	
FOR THE SAME	:	

This decision is in response to applicants' "TRANSMITTAL FOR RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 08 June 2006 in response to a decision by this Office dated 17 April 2006.

BACKGROUND

The decision by this Office dated 17 April 2006 indicated that requirement (2) under 37 CFR 1.47(a) had not been satisfied.

On 08 June 2006, applicants filed this renewed petition accompanied, inter alia, an executed declaration by the nonsigning inventor Burkhard Seitz.

DISCUSSION

The renewed petition states subsequent to the date of the Decision applicants located Mr. Burkhard Seitz and have obtained a signed Declaration and Power of Attorney from him.

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT**. However, for the reason below, the application may not enter into national stage processing at this time.

The declaration submitted is improper as indicated in the last decision because it is a combination of both original signed and faxed pages. 37 CFR 1.497(a) and (b) require that the declaration must be complete and not as here a combination of two sets to make a complete declaration. A proper declaration must consist of individual complete sets of the declaration (in this instance each declaration must consist of 4 pages) listing all the inventors even though each

set of declaration may not have all the signatures of the inventors but taken as a whole would have all the required signatures as required under 37 CFR 1.497.

A proper response must be filed within TWO (2) MONTHS time period from the mail date of this notification. The response should include a cover letter entitled "Submission Under 37 CFR 1.497." Failure to timely respond will result in the abandonment of the application.

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

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07 DEC 2007

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Salt Lake City, UT 84111

In re Application of	:	DECISION ON RENEWED
Burkhard Seitz et al.	:	
PCT No.: PCT/DE02/02143	:	
Application No.: 10/473,941	:	
Int. Filing Date: 12 June 2002	:	PETITION UNDER
Priority Date: 15 June 2001	:	
Attorney's Docket No.: 15436.274.4A.1	:	
For: ADJUSTMENT METHOD, PARTICULARLY...	:	
FOR THE SAME	:	37 CFR 1.182

This decision is in response to applicants' "SUBMISSION UNDER 37 CFR 1.497" filed on 13 April 2007, which is being treated as a petition under 37 CRF 1.182 requesting that the correct name of the first inventor is Burkhard Arthur Seitz and not Burkhard Arthur Seitz Muller (name born under). This is being treated as a petition under 37 CFR 1.182.

BACKGROUND

In a decision from this Office on 24 January 2007, the petition filed on 08 June 2006 under 37 CFR 1.47(a) was moot since Mr. Burkhard Seitz was found and he signed the petition. However, the declaration submitted on that date was improper.

On 13 April 2007, applicants filed a composite executed declaration, comprising of two sets. In one set of the declaration, the section pertaining to the first named inventor, the name Burkhard Arthur Seitz born Muller appears; this name did not appeared in the international application which is Burkhard Arthur Seitz, and does not appear in the second set of the declaration of the composite declaration.

DISCUSSION

It is unclear from the submission whether the correct legal name is Burkhard Arthur Seitz Muller or Burkhard Arthur Seitz. Therefore, the declaration of the inventors is not acceptable at this time because one set has been amended to reflect a different name, in that the name of the first inventor, Burkhard Arthur Seitz born Muller, does not correspond to that set forth in the international application, Burkhard Arthur Seitz. If his correct current legal name is Burkhard Arthur Seitz when the international application was filed, then applicant should state that and this name is the only name that must appear in both sets of the declaration that is acting as a composite declaration. If his name changed during the prosecution of the international application to reflect Burkhard Arthur Seitz then applicants have to follow the procedure below when applicant changes his/her name.

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant must provide items (1) and (2) for consideration. Alternatively, applicants may provide a showing that the name change was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

Also, in the case where there is no change name of the individual but an incorrect name was given, a petition under **37 CFR 1.182** should be filed requesting correction of applicant's name.

If, however, the name change is due to a typographical error then applicant needs to state and explain it by filing a petition under 37 CFR 1.181. If filed under 37 CFR 1.181 the reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No fee is required under this petition.

For the reasons above, the application may not enter into national stage processing at this time.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

A proper response to the Notice must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file 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.

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06 MAR 2008

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Salt Lake City, UT 84111

In re Application of	:	DECISION ON RENEWED
Burkhard Seitz et al.	:	
PCT No.: PCT/DE02/02143	:	
Application No.: 10/473,941	:	
Int. Filing Date: 12 June 2002	:	PETITION UNDER
Priority Date: 15 June 2001	:	
Attorney's Docket No.: 15436.274.4A.1	:	
For: ADJUSTMENT METHOD, PARTICULARLY...	:	
FOR THE SAME	:	37 CFR 1.182

This is in response to applicant's submission "PETITION UNDER 37 CFR 1.182 TO CORRECT INVENTOR'S NAME FROM BURKHARD ARTHUR SEITZ BORN MULLER TO BURKHARD ARTHUR SEITZ" filed on 07 December 2007. This submission states that the correct name of the first inventor is Burkhard Arthur SEITZ. The petition fee of $400.00 has been paid by credit card.

BACKGROUND

In a decision from this Office on 07 December 2007, the decision indicated that the application could not enter into national stage at that time since it was unclear the name of the first named inventor.

On 07 December 2007, this renewed petition was filed and states that the correct name of the first inventor is Burkhard Arthur SEITZ.

DISCUSSION

The correct name of the applicant "Burkhard Arthur SEITZ" as explained in the petition and this name will be reflected in the US national stage processing. This is the name that has been used in the Declaration.

For the reasons above, the application may enter into national stage processing at this time.

CONCLUSION

The petition under 37 CFR 1.182 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 **13 APRIL 2007.**

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WASHINGTON DC 20005

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Noboru Sasaki et al	:	
Application No. 10/473,950	:	ON PETITION
Filed: October 3, 2003	:	
Attorney Docket No. 1186.1030	:	

This is a decision on the petition, filed May 10, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 4, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1773 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).

DATE 5-11-07 APPLICATION NUMBER 10/473950

DOC CODE IMIW DOC DATE 5-11-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date : May 11, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/473,950**

Applicant(s) : Noboru Sasaki et al
Application No. : 10/473,950
Filed : October 3, 2003

The above-identified application has been assigned Patent No. 7,217,451 and an issue date of May 15, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 15, 2007:

"All reference to Patent No. 7,217,451 to Noboru Sasaki et al of Japan for LAMINATED BODY appearing in the Official Gazette of May 15, 2007 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie
Duane Davis (CDS)
Brad Harris
Kim Terrell
Kay Pinkney

Cadre n° VIII.iv) DÉCLARATION : QUALITÉ D'INVENTEUR
(seulement aux fins de la désignation des États-Unis d'Amérique)

La déclaration doit être conforme au libellé standard suivant prévu à l'instruction 214; voir les notes relatives aux cadres n° VIII, VIII.i) à v) (généralités) et les notes spécifiques au cadre n° VIII.iv). Si ce cadre n'est pas utilisé, cette feuille ne doit pas être incluse dans la requête.

Déclaration relative à la qualité d'inventeur (règles 4.17.iv) et 51*bis*.1.a)iv))
aux fins de la désignation des États-Unis d'Amérique :

Par la présente, je déclare que je crois être le premier inventeur original et unique (si un seul inventeur est mentionné ci-dessous) ou l'un des premiers coïnventeurs (si plusieurs inventeurs sont mentionnés ci-dessous) de l'objet revendiqué pour lequel un brevet est demandé.

La présente déclaration a trait à la demande internationale dont elle fait partie (si la déclaration est déposée avec la demande).

La présente déclaration a trait à la demande internationale n° PCT/ FR02/01173 (si la déclaration est remise en vertu de la règle 26*ter*).

Par la présente, je déclare que mon domicile, mon adresse postale et ma nationalité sont tels qu'indiqués près de mon nom.

Par la présente, je déclare avoir passé en revue et comprendre le contenu de la demande internationale à laquelle il est fait référence ci-dessus, y compris les revendications de ladite demande. J'ai indiqué dans la requête de ladite demande, conformément à la règle 4.10 du PCT, toute revendication de priorité d'une demande étrangère et j'ai identifié ci-dessous, sous l'intitulé "Demandes antérieures", au moyen du numéro de demande, du pays ou du membre de l'Organisation mondiale du commerce, du jour, du mois et de l'année du dépôt, toute demande de brevet ou de certificat d'auteur d'invention déposée dans un pays autre que les États-Unis d'Amérique, y compris toute demande internationale selon le PCT désignant au moins un pays autre que les États-Unis d'Amérique, dont la date de dépôt est antérieure à celle de la demande étrangère dont la priorité est revendiquée.

Demandes antérieures : .....

.....

Par la présente, je reconnais l'obligation qui m'est faite de divulguer les renseignements dont j'ai connaissance et qui sont pertinents quant à la brevetabilité de l'invention, tels qu'ils sont définis dans le Titre 37, § 1.56, du Code fédéral des réglementations, y compris, en ce qui concerne les demandes de continuation-in-part les renseignements pertinents qui sont devenus accessibles entre la date de dépôt de la demande antérieure et la date du dépôt international de la demande de continuation-in-part.

Je déclare par la présente que toute déclaration ci-incluse est, à ma connaissance, véridique et que toute déclaration formulée à partir de renseignements ou de suppositions est tenue pour véridique; et de plus, que toutes ces déclarations ont été formulées en sachant que toute fausse déclaration volontaire ou son équivalent est passible d'une amende ou d'une incarcération, ou des deux, en vertu de la Section 1001 du Titre 18 du Code des États-Unis, et que de telles déclarations volontairement fausses risquent de compromettre la validité de la demande de brevet ou du brevet délivré à partir de celle-ci.

Nom : VIDAL Jean

Domicile : .....
(ville et État (des États-Unis d'Amérique), le cas échéant, ou pays)

Adresse postale : 3, avenue du Vaularon
91940 GOMETZ LE CHATEL - France

Nationalité : Française

Signature de l'inventeur : J. Vidal
(si elle ne figure pas dans la requête, ou si la déclaration a fait l'objet de corrections ou d'adjonctions en vertu de la règle 26*ter* après le dépôt de la demande internationale. La signature doit être celle de l'inventeur, il ne peut s'agir de celle du mandataire)

Date : 22 JUillet 2002
(de la signature qui ne figure pas dans la requête, ou de la déclaration qui a fait l'objet de corrections ou d'adjonctions en vertu de la règle 26*ter* après le dépôt de la demande internationale)

Nom : JEANNEAU Matthieu

Domicile : .....
(ville et État (des États-Unis d'Amérique), le cas échéant, ou pays)

Adresse postale : Le Quadrille
36100 SAINT VALENTIN - France

Nationalité : Française

Signature de l'inventeur : M. Jeanneau
(si elle ne figure pas dans la requête, ou si la déclaration a fait l'objet de corrections ou d'adjonctions en vertu de la règle 26*ter* après le dépôt de la demande international. La signature doit être celle de l'inventeur, il ne peut s'agir de celle du mandataire)

Date : 22 JUillet 2002
(de la signature qui ne figure pas dans la requête, ou de la déclaration qui a fait l'objet de corrections ou d'adjonctions en vertu de la règle 26*ter* après le dépôt de la demande internationale)

☒ Cette déclaration continue sur la feuille suivante, "Suite du cadre n° VIII.iv)".

Suite du Cadre n° VIII.i) à v) DÉCLARATION

Si l'un des cadres n°s VIII.i) à v) ne suffit pas à contenir tous les renseignements, y compris dans le cas où plus de deux inventeurs doivent être nommés dans le cadre n° VIII.iv), dans ce cas, indiquer "Suite du cadre n° VIII ..." (compléter le numéro du cadre en précisant le point) et fournir les renseignements conformément aux instructions données dans le cadre dans lequel la place était insuffisante. Si on a besoin de place supplémentaire dans deux ou plusieurs cadres, il faut utiliser le cadre "Suite" du cadre correspondant pour continuer chacune des déclarations. Si le présent cadre n'est pas utilisé, cette feuille ne doit pas être incluse dans la requête.

Suite du cadre n° VIII.iv)

Nom : PEREZ Pascual
Domicile : 17, chemin de la Pradelle
63450 CHANONAT - France
Nationalité : Française
Signature :

DATE : 22 juillet 2002

Nom : GERENTES Denise
Domicile : 48, route de la Roche Blanche
63450 LE CREST - France
Nationalité : Française
Signature :

DATE : 22 JUillet 2002

23 JUN 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Benoit Castel
YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of	:	
Leendert TAAL	:	
Application No.: 10/473,968	:	
PCT Application No.: PCT/NL02/00143	:	DECISION ON
International Filing Date: 04 March 2002	:	
Priority Date: 02 March 2001	:	PETITION
Attorney Docket No.: 2001-1294	:	
For: PREPARATION CONTAINING POLYDIMETHYLSILOXANE FOR NAIL, CARTILAGE, BONE JOINT, MUSCLE AND TENDON DISORDERS	:	UNDER 37 CFR 1.137(b)

Applicant's "Petition To Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 03 October 2003 is **GRANTED**.

BACKGROUND

On 04 March 2002, applicant filed international application PCT/NL02/00143. The international application claims a priority date of 02 March 2001 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 02 September 2003. Applicant missed this deadline.

On 03 October 2003, applicant filed the instant petition for revival 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 as required by 35 U.S.C. 371(c)(2). Applicant authorized the petition fee of $1330 be charged to Applicant's Deposit Account 25-0120.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Payment of the basic national fee and a communication by the

international application from the international bureau submission of a copy of the international application constitute a proper reply for entry into the national stage.

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 pursuant to 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee from applicant's deposit account satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notice of Missing Requirements (PCT/DO/EO/905) indicating that a signed 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

Jimmy G. Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 09 2007

OFFICE OF PETITIONS

In re Application of :

ROESER, Wieland :
Application No. 10/473,969 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. **449122064800** : 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 **APPROVED.**

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

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

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WIELAND ROESER**
GARTENSTRASSE 8
BEHRENHOFF, GERMANY 17498

cc: **KEVIN R. SPIVAK**
BELL, BOYD & LLOYD LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :

DEL RIO, et al. :

Application No. 10/473,977 : DECISION ON PETITION
Filed: November 17, 2003 : TO WITHDRAW
Attorney Docket No. 4565-0107P : 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 26, 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 Charles Gorenstein on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

David Bucc
Petitions Examiner
Office of Petitions

cc: **Christina Mateo De Acosta Del Rio**
Calle C No. 9510 entre 6 Y 10
Altahabana, Boyeros
Ciudad De La Habana, Cuba 10800

cc: **Centro De Immunologia Molecular**
Calle 216 Y 15
Atabey, Playa
Ciudad De La Habana, Cuba 12100

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/473,977	11/17/2003	Cristina Mateo De Acosta Del Rio	4565-0107P

CONFIRMATION NO. 9366

02292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000020653120

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

- 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

23 JUL 2004
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#7

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

In re Application of FERNANDEZ MOLINA et al :
U.S. Application No.: 10/473,978 :
PCT Application No.: PCT/CU02/00002 :
Int. Filing Date: 08 April 2002 :
Priority Date Claimed: 06 April 2001 : DECISION
Attorney Docket No.: 4565-0106P :
For: IMMUNOTHERAPEUTIC :
COMBINATIONS FOR THE TREATMENT :
OF TUMOURS THAT OVEREXPRESS :
GANGLIOSIDES :

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 02 July 2004.

BACKGROUND

On 08 April 2002, applicant filed international application PCT/CU02/00002, which claimed priority of an earlier Cuba application filed 06 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 17 October 2002. The thirty-month period for paying the basic national fee in the United States expired on 06 October 2003.

On 03 October 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 02 February 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 02 July 2004, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted an executed declaration. This declaration is not acceptable because it does not list Adriana Maria Rojas Del Calvo, who is listed as an inventor for the purposes of the United States in the published international application.

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 Alexis Perez Gonzalez cannot be found. However, the petition does not sufficiently establish that a diligent effort was made to locate Mr. Perez Gonzalez. The affidavit of Josefa Lombardero Valladares indicates that one attempt was made to reach Mr. Perez Gonzalez by mail and another attempt was made to find a telephone number for Mr. Perez Gonzalez. However, no evidence has been presented concerning any attempts to locate Mr. Perez Gonzalez by searching for a new mailing address, by electronic mail, or by contacting Mr. Perez Gonzalez' family, friends, or former co-workers. Thus, it would not be reasonable to conclude at the present time that Mr. Perez Gonzalez cannot be located.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

Because applicant has failed to satisfy items (1) and (2) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

05 NOV 2004

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BIRCH STEWART KOLASCH & BIRCH
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FALLS CHURCH, VA 22040-0747

In re Application of FERNANDEZ MOLINA et al :
U.S. Application No.: 10/473,978 :
PCT Application No.: PCT/CU02/00002 :
Int. Filing Date: 08 April 2002 :
Priority Date Claimed: 06 April 2001 : DECISION
Attorney Docket No.: 4565-0106P :
For: IMMUNOTHERAPEUTIC :
COMBINATIONS FOR THE TREATMENT :
OF TUMOURS THAT OVEREXPRESS :
GANGLIOSIDES :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 25 October 2004.

BACKGROUND

On 08 April 2002, applicant filed international application PCT/CU02/00002, which claimed priority of an earlier Cuba application filed 06 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 17 October 2002. The thirty-month period for paying the basic national fee in the United States expired on 06 October 2003.

On 03 October 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 02 February 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 02 July 2004, applicant filed a petition under 37 CFR 1.47(a).

On 23 July 2004, this Office mailed a decision dismissing the 02 July 2004 petition.

On 25 October 2004, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) 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 (3) and (4) above.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventors Alexis Perez Gonzalez and Adriana Maria Rojas Del Calvo.

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 inventors Perez Gonzalez and Rojas Del Calvo cannot be found and sufficiently establishes that a diligent effort was made to locate the inventors. Specifically, the affidavit of Josefa Lombardero Valladares states that unsuccessful attempts were made to reach the inventors by mail, by searching Internet directories for current addresses and telephone numbers, and by contacting former co-workers. Thus, it can be concluded with reasonable certainty that inventors Perez Gonzalez and Rojas Del Calvo cannot be found.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 04 April 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 25 October 2004.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventors at the last known addresses 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

05 NOV 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexis Perez Gonzalez
Calle I #18310 entre 1ra y 2da
Monterrey, Ciudad de la Habana 13100
CUBA

In re Application of FERNANDEZ MOLINA et al
U.S. Application No.: 10/473,978
PCT Application No.: PCT/CU02/00002
Int. Filing Date: 08 April 2002
Priority Date Claimed: 06 April 2001
For: IMMUNOTHERAPEUTIC COMBINATIONS FOR THE TREATMENT OF TUMOURS THAT OVEREXPRESS GANGLIOSIDES

Dear Alexis Perez Gonzalez:

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

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

Attorney Docket No.: 4565-0106P

05 NOV 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Adriana Maria Rojas Del Calvo
Industria #163 entre Animas y Trocader
Centro Habana, Cuidad de la Habana 12400
CUBA

In re Application of FERNANDEZ MOLINA et al
U.S. Application No.: 10/473,978
PCT Application No.: PCT/CU02/00002
Int. Filing Date: 08 April 2002
Priority Date Claimed: 06 April 2001
For: IMMUNOTHERAPEUTIC COMBINATIONS FOR THE TREATMENT OF TUMOURS THAT OVEREXPRESS GANGLIOSIDES

Dear Adriana Maria Rojas Del Calvo:

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
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Attorney Docket No.: 4565-0106P

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OFFICE OF PETITIONS

In re Application of :

FERNANDEZ, et al. :

Application No. 10/473,978 : DECISION ON PETITION
Filed: October 25, 2004 : TO WITHDRAW
Attorney Docket No. 4565-0106P : 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 26, 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 Charles Gorenstein on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Luis Enrique Fernandes Monlina**
Calle 180 Entra La Y 5a, Edificio A3 Apto 13
Flores, Playa
Ciudad De La Habana, Cuba 12100

cc: **Centro De Immunologia Molecular**
Calle 216 Y 15
Atabey Playa
Ciudad De La Habana, Cuba 12100

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/473,978	10/25/2004	Luis Enrique Fernandez Molina	4565-0106P

CONFIRMATION NO. 9373

OC000000020653654

02292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE, NY 10583

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MAY 13 2008

OFFICE OF PETITIONS

In re Application of :
Luis Enrique Fernandez MOLINA et al. :
Application No. 10/473,978 : DECISION ON PETITION
Filed: October 25, 2004 :
Attorney Docket No. **LEXSA.P47** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 12, 2007 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of March 12, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,230.00 extension of time fee submitted with the petition on March 10, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The Oath/Declaration Power of attorney filed with the petition on March 10, 2008 has been accepted and made of record.

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

The application is being referred to the Technology Center AU 1642 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SUITE 400
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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
HINDERBERGER, Harald :
Application No. 10/473,979 :
Filed: October 03, 2003 :
Attorney Docket No. **449122064700** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HARALD HINDERBERGER**
FRITZ-BERNE-STR. 32
MUNCHEN, GERMANY 81241

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

23 JUL 2004

45

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John P. DeLuca
DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of	:	DECISION ON
Allan NICHOLSON	:	
Application No.: 10/473,981	:	
PCT No.: PCT/GB02/01205	:	PETITION UNDER
Int. Filing Date: 14 March 2002	:	
Priority Date: 4 April 2001	:	37 CFR 1.181
Attorney's Docket No.: 66291-095	:	
For: WET MATEABLE CONNECTOR	:	

This Decision is in response to applicants' "REQUEST TO WITHDRAWAL HOLDING OF ABANDONMENT ATTENTION CHARITTA A. BURT" filed on 20 February 2004 that the above-identified application was improperly held abandoned because on October 6, 2003 applicant had authorized to charge $1050.00 to Deposit Account 04-2223.

BACKGROUND

On 14 March 2002, this international application was filed, claiming an earliest priority date of 4 April 2001.

On 03 October 2003, applicant filed a Transmittal letter for entry into the national stage in the United States, which was not accompanied by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). In addition no executed oath or declaration as required by 35 U.S.C. 371(c)(4) was submitted on such date. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 06 October 2003 since 04 October 2003 fell on a Saturday.

On 18 February 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant had failed to provide the full U.S. Basic National Fee by 30 months.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 18 February 2003, petitioner has submitted the instant petition requesting withdrawal of the Notice of Abandonment. In support of the petition, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 06 October 2003.

DISCUSSION

The present petition was accompanied by a copy of the original postcard which was sent to the United States Designated/Elected Office (DO/EO/US). The postcard list the items submitted on 06 October 2003 and it indicates, *inter alia*, that a transmittal letter to charge $1,050.00 was received on such date. Petitioner states that the papers accompanying the present petition are a copy of the papers submitted on October 6, 2003.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard receipt serves as *prima facie* evidence of receipt of the listed item on 06 October 2003 by the USPTO, i.e., the transmittal letter to charge $1,050.00 was received on such date, and this fee was charged to petitioner's Deposit Account on 20 October 2003.

Accordingly, petitioner's response- the payment of the basic national fee on October 6, 2003 is considered timely. Accordingly, the instant application has been improperly abandoned.

DECISION

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED**. The NOTIFICATION OF ABANDONMENT, mailed 18 February 2004 has been **VACATED**.

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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FISH & RICHARDSON
PO Box 1022
Minneapolis, MN 55440-1022

In re Application of:
BES, Cyril, et al.
U.S. Application No.: 10/473,984
PCT No.: PCT/FR02/01044
International Filing Date: 26 March 2002
Priority Date: 30 March 2001
Atty Docket No.: CABO14-216082
For: DEVICE AND METHOD FOR EXCHANGING FLOWS BETWEEN A CLIENT DEVICE AND A SERVER

DECISION ON PETITION

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181(a)" filed 27 September 2005. No petition fee is required.

BACKGROUND

On 26 March 2002, applicants filed international application PCT/FR02/01044 which claimed a priority date of 30 March 2001 and which designated the United States. On 10 October 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 September 2003.

On 30 September 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, an English translation of the international application, and an unexecuted declaration.

On 04 February 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 27 September 2005, the petition considered herein was filed. The petition asserts that on 03 February 2004 applicants submitted an executed declaration. Attached to the petition is a copy of the materials purportedly mailed on 03 February 2004 (including the executed declaration), as well as a copy of a return postcard that itemizes the declaration and bears a USPTO receipt stamp dated 05 February 2004.

DISCUSSION

The application file contains the executed declaration originally filed by applicants on 05 February 2004. The declaration bears a USPTO receipt stamp dated 05 February 2004, confirming the asserted filing date. The filing date of the declaration is therefore confirmed, and the declaration is considered a timely response to the Notification Of Missing Requirements mailed 04 February 2004.

The abandonment of the application, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately withdrawn. A review of the declaration filed 05 February 2004 confirms that the declaration is in compliance with 37 CFR 1.497.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The executed declaration filed 05 February 2004 is accepted as a timely response to the Notification Of Missing Requirements (Form PCT/RO/905) mailed 04 February 2004.

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 05 February 2004.

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

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Jacobson Holman PLLC
400 Seventh Street, NW
Washington, DC 20004

In re Application of :
LIBORI, Stig Eigil Barkou, et al. :
Application No.: 10/474,030 :
PCT No.: PCT/DK02/000245 :
Int. Filing Date: 11 April 2002 : DECISION
Priority Date: 11 April 2001 :
Attorney's Docket No.: P66577US1 :
For: DUAL CORE PHOTONIC CRYSTAL :
FIBERS (PCF) WITH SPECIAL :
DISPERSION PROPERTIES :

This decision is in response to applicants' "Response to Notification of Missing Requirements Under 25 U.S.C. 371," filed with the United States Patent and Trademark Office on 05 April 2004.

BACKGROUND

On 11 April 2002, applicants filed international application PCT/DK02/00245, which claimed a priority date of 11 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 October 2002. A demand for international preliminary examination was filed on 11 November 2002. The deadline for entry into the national stage in the United States was midnight 14 October 2003 (11 October 2003 was a Saturday and 13 October 2003 was a holiday).

On 10 October 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 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 April 2004, applicants submitted a declaration executed by the inventors.

DISCUSSION

The declaration contains non-initialed, non-dated alterations. A new oath or declaration executed by the inventors is required. 37 CFR 1.52(c)(1).

CONCLUSION

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this decision. Failure to 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.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

23 NOV 2004

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Jacobson Holman PLLC
400 Seventh Street, NW
Washington, DC 20004

In re Application of :
LIBORI, Stig Eigil Barkou, et al. :
Application No.: 10/474,030 :
PCT No.: PCT/DK02/00245 :
Int. Filing Date: 11 April 2002 : DECISION
Priority Date: 11 April 2001 :
Attorney's Docket No.: P66577US1 :
For: DUAL CORE PHOTONIC CRYSTAL :
FIBERS (PCF) WITH SPECIAL :
DISPERSION PROPERTIES :

This decision is in response to applicants' letter filed with the United States Patent and Trademark Office on 26 August 2004.

BACKGROUND

On 11 April 2002, applicants filed international application PCT/DK02/00245, which claimed a priority date of 11 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 October 2002. A demand for international preliminary examination was filed on 11 November 2002. The deadline for entry into the national stage in the United States was midnight 14 October 2003 (11 October 2003 was a Saturday and 13 October 2003 was a holiday).

On 10 October 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 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 April 2004, applicants submitted a declaration executed by the inventors.

On 29 June 2004, the Office mailed Decision indicating that the declaration supplied by applicant was not in compliance with 37 CFR 1.497(a)-(b).

On 26 August 2004, applicants submitted the instant letter accompanied by a declaration executed by the inventors.

DISCUSSION

The declaration complies 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 August 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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PRTSI INC
PO BOX 16446
ARLINGTON VA 22215

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In re Application of :
Tuvia Gilat : DECISION ON PETITION
Application No. 10/474,032 :
Filed: October 10, 2003 :
Attorney Docket No. 29856 :

This is a decision on the "PETITION TO WITHDRAWAL TERMINAL DISCLAIMERS", filed April 28, 2008.

The petition under 37 CFR 1.182 is **GRANTED**.

The matter is being forwarded to Group Art Unit 1612. The examiner is directed to withdraw the terminal disclaimer over US Patent Nos. 6,589,946 and 6,395,722.

Receipt of the $400 petition fee is acknowledged.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Sebastian Berkes et al :
Application No. 10/474,049 : DECISION ON PETITION
Filed: February 19, 2004 :
Attorney Docket No. OEH-167/500814.20069 :

This is a decision on the petition, filed April 29, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of February 15, 2008, which set a three (3) month shortened statutory period for reply. Five month (5) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before August 15, 2008.

Office record show a timely reply was received on August 14, 2008, which included the following papers: amendment and response; amendments to the claims; remarks; and three month (3) extension of time. Petitioner has submitted a copy of the previously mailed correspondence.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of February 15, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3735 for appropriate action in the normal course of business on the reply received on August 14, 2008.

Irvin Dingle
Petitions Examiner
Office of Petitions

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of
Raskov
Application No. 10/474,058
Filed: October 6, 2003
Attorney Docket No. 59285.000003

:DECISION DISMISSING
:PETITIONS UNDER 37 CFR
:1.78(a)(3) and 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international PCT application (Application No. PCT/ DK00/00546, filed September 29, 2000) and 37 CFR 1.55(c), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of Danish Application No. 1999 01390, filed September 29, 1999. Both petitions were filed in the same correspondence on February 22, 2005.

The petitions are **dismissed** as moot for the reasons stated below.

A petition under 37 CFR §§ 1. 78(a)(3) and 1.55(c) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on October 6, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in a priority document filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 37 CFR 1.55(c) is not included in the first sentence of the specification or in an ADS but does appear elsewhere in the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO

does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the priority document filed with the application, as shown by their inclusion on the filing receipt.

In view of the dismissal of the instant petition as moot, the $1,370.00 fee submitted therefor is unnecessary. Accordingly, as authorized, this fee will be refunded to Deposit Account No. 50-0206 in due course.

While the petitions are dismissed as moot, applicant is nevertheless required to submit to the examiner of record a proper claim of benefit to the prior applications.

The amendment to the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

In addition, 37 CFR 1.63(c)(2) requires the foreign application be included in an oath/declaration or an ADS.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

---

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

This matter is being referred to Technology Center 1614 for examination in due course.

Frances Hicks

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

09 MAR 2004

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CURT HARRINGTON
6300 State University Drive
Suite 250
Long Beach, California 90815

In re Application of:	:	
MCGETTIGAN, Patricia M.	:	
U.S. Application No.: 10/474,064	:	COMMUNICATION
PCT No.: PCT/IE02/00041	:	
International Filing Date: 28 March 2002	:	
Priority Date: 30 March 2001	:	
Attorney's Docket No.: KELLY-D1	:	
For: A MATTRESS	:	

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

BACKGROUND

On 28 March 2002, applicant filed international application PCT/IE02/00041 which claimed a priority date of 30 March 2001 and which designated the United States. On 10 October 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., 30 September 2003.

On 29 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee and an unexecuted declaration. The submission also included a copy of a Rule 4.17 declaration filed during the international phase and executed by both inventor Patricia M. McGettigan and co-applicant (for states other than the United States) James McGettigan. The transmittal letter included with the national stage materials confirms that, regardless of James McGettigan's signature on the Rule 4.17 declaration, the only inventor herein is Patricia McGettigan.

DISCUSSION

The declaration filed in the international phase and executed by both Patricia M. McGettigan and James McGettigan cannot be accepted under 37 CFR 1.497 because it is unclear from the declaration whether James McGettigan is claimed to be an inventor in this national stage application. Accordingly, applicants are required to submit a properly executed declaration in compliance with 37 CFR 1.497 which identifies and is executed only by the sole inventor, Patricia McGettigan.

CONCLUSION

For the reasons set forth above, the Rule 4.17 declaration filed by applicant in the international phase cannot be accepted under 37 CFR 1.497.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including the issuance of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a properly executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
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Alexandria, VA 22313-1450
www.uspto.gov

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

COPY MAILED

AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of
Wells et al.
Application No. 10/474,068
Filed: September 30, 2003
Attorney Docket No. 13148.11

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 on January April 29, 2009.

The request is **NOT APPROVED**.

The request cannot be approved since the proper certifications were not made. Pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond.

As to item (2), although petitioner stated that they *are* returning the application files to the applicant, 37 CFR 10.40 requires a statement that the files have already been *delivered.*

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to Alicia Kelley at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

OIPE JC1 80
MAR 25 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Philipp Stössel et al.

Application No.: 10/474090 Group Art Unit: N/A

Filed: October 3, 2003 Examiner: Not Yet Assigned

For: RHODIUM AND IRIDIUM COMPLEXES

REQUEST FOR CORRECTED FILING RECEIPT

Filing Receipt Corrections
Office of Initial Patent Examination
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby requests that a corrected Filing Receipt be issued in the above-identified patent application. The official Filing Receipt received by Applicant, a copy of which is attached hereto, has an error in **FILING OR 371(c) DATE**: The filing date should be "10/28/03" as evidenced by the enclosed copy of the Transmittal Letter, Combined Declaration And Power Of Attorney, Fee Transmittal for FY 2004 and PTO return postcard date-stamped October 28, 2003.

As the error was made by the Patent and Trademark Office, it is believed that no fee is due. Please credit our Deposit Account No. 03-2775 as necessary to effect entry of the attached corrections.

Applicant additionally requests that all pertinent U.S. Patent and Trademark Office records relating to the subject application be changed to reflect this correction.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 09931-00026-US from which the undersigned is authorized to draw.

Respectfully submitted,

By _____

Ashley I. Pezzner
Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, Delaware 19899
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant

OIPE JC190
MAR 25 2004
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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10/28/03

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/474,090	02/19/2004	1621	1176	09931-00026-US		27	1

CONFIRMATION NO. 8731

23416
CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

FILING RECEIPT

OC000000012133772

Date Mailed: 03/19/2004

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

Applicant(s)

Philip Stossel, Frankfurt, GERMANY;
Hubert Spreitzer, Viernheim, GERMANY;
Heinrich Becker, Niederjosbach, GERMANY;

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP02/03704 04/03/2002

Foreign Applications

GERMANY 101 16 962.0 04/05/2001

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

Title

Rhodium and iridium complexes

Preliminary Class

556

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

GRANTED

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

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

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

NOT GRANTED

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

OIPE JC1390
MAR 25 2004
PATENT & TRADEMARK OFFICE

PTO/SB/92 (05-03)
Approved for use through 4/30/2003. 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.

Application No. (if known): 10/474090 Attorney Docket No.: 09931-00026-US

Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Filing Receipt Corrections
Office of Initial Patent Examination
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on March 22, 2004
Date

J. Lynn Ferry
Signature

J. Lynn Ferry
Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Request for Corrected Filing Receipt (2 pages)
Copy of Transmittal Of Combined Declaration And Power Of Attorney
Return Postcard

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Commissioner for Patents
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10 JUL 2006

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

In re Application of	:	
STÖSSEL, Philipp et al.	:	
Application No.: 10/474,090	:	DECISION ON
PCT No.: PCT/EP02/03704	:	
Int. Filing Date: 03 April 2002	:	PETITION
Priority Date: 05 April 2001	:	
Attorney Docket No.: 09931-00026-US	:	UNDER 37 CFR 1.181
For: RHODIUM AND IRIDIUM COMPLEXES	:	

This decision is in response to applicant's "Response to Notification of Missing Requirements," filed on 19 February 2004. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 03 April 2002, applicants filed international application PCT/EP02/03704. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 October 2002. The deadline for entry into the national stage in the United States was thirty months from the priority date, 05 October 2003.

On 03 October 2003, applicants submitted a transmittal letter for entry into the national phase in the United States accompanied by the basic national fee.

On 28 October 2003, applicants submitted a declaration of the inventors accompanied by the surcharge for late filing of the oath or declaration.

On 13 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 19 February 2004, applicants submitted the instant petition, accompanied a copy of a declaration and a postcard receipt indicating that the declaration and surcharge were paid on 23 October 2003.

On 19 March 2004, the Office mailed a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) were satisfied on 19 February 2004.

On 20 December 2005, applicants submitted a request for a corrected filing receipt.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicants have provided copies of the declaration claimed to have been submitted on 28 October 2003 and a date stamped postcard receipt, listing the declaration and identifying this application. The postcard receipt is adequate evidence of receipt of the declaration by the Office.

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 13 February 2004 is **VACATED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 19 March 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification of Acceptance and filing receipt.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 FEB 2004

#4

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Michael A. Hierl
Olson & Hierl, Ltd.
20 north Wacker Drive
36th Floor
Chicago, Illinois 60606

In re Application of	:	
GORDON	:	
U.S. Application No.: 10/474,097	:	DECISION ON PETITION
PCT No.: PCT/GB01/01017	:	
Int. Filing Date: 09 March 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 09 March 2001	:	
Attorney Docket No.: ROY-016	:	
For: REMOTE MONITORING SYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 06 October 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. It is noted that the petition fee as of 01 October 2003 was $1330.00. The $30.00 shortfall has been charged to Deposit Account No.: 15-0508 as authorized.

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

26 MAY 2004

#3

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James R. Brueggemann, Esquire
Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

In re Application of	:	DECISION ON
James H. Macemon	:	
Application No.: 10/474,101	:	
PCT No.: PCT/US00/12347	:	PETITION
Int. Filing Date: 5 May 2000	:	
Priority Date: 6 May 1999	:	
Attorney's Docket No.: RZV-69421	:	UNDER 37 CFR 1.181
For: METHOD FOR REMOVING GAS BUBBLE	:	
FROM A FLUID-CONTAINING CHAMBER	:	AND 37 CFR 1.10 (c)

This is in response to applicant's "PETITION UNDER 37 C.F.R. 1.10(e) FOR ORIGINAL FILING DATE" filed 06 October 2003, which is being treated as a petition under 37 CFR 1.10(c) requesting that the above-identified international application be considered as received in the United States Patent and Trademark Office (USPTO) on 06 November 2001. No petition fee is required.

BACKGROUND

On 06 October 2003, applicant filed the present petition that states that the original application documents were deposited with the United States Postal Service on November 6, 2001 in accordance with the "Express Mail" mailing procedures set forth in 37 C.F.R. 1.10.

The submitted petition includes, inter alia, : 1) Receipt Post Card, 2) Certificate of Mailing by "Express Mail", 3) Transmittal Level (Form PTO –1390), 4) Declaration and 5) a copy of the customer receipt of "Express Mail" Label No. EL727851751US.

DISCUSSION

37 CFR 1.181 (POSTCARD):

Applicant's present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the PTO as indicated in the stamped postcard:

(1) Declaration For Patent Application
(2) Copy of the "Express Mail" label EL 727851751 US
(3) Certificate Under 37 CFR 1.10
(4) Utility patent application

The postcard lists the above items and bears a USPTO date of stamp as 06 January 2001.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the international application was received in the USPTO.

Applicant's postcard is accepted as *prima facie* that the utility application and the declaration were deposited with the U.S. Patent and Trademark Office on 06 January 2001. However, applicant alleges that the above identified patent application was filed on November 06, 2001.

Applicant also submits a petition under 37 CFR 1.10(c) and it will now be reviewed under 37 CFR 1.10(c) to determine the filing date of the above papers.

37 CFR 1.10(c):

37 CFR 1.10(c) provides:

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.

With regard to item (1), the present petition was promptly filed within applicant becoming aware that the Office had no evidence of receipt of the correspondence in question.

With regard to item (2), a review of the application file indicates that the number of the "Express Mail" mailing label "EL727851751US" was placed on the Certificate of Mailing correspondence prior to the original mailing by Express Mail on 06 November 2001.

With regard to item (3), applicant has provided a copy of the originally deposited papers that constitutes the correspondence showing the number of the Express Mail label as "EL727851751US" thereon and a copy of the Express Mail label "EL727851751US" showing the "date-in" as 06 November 2001, as required.

Applicant has stated that applicant submits copies of the papers submitted on 06 November 2001. Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For the reasons above, the petition under 37 C.F.R. §1.181 is **GRANTED** in that the application was received by the USPTO.

For the reasons above, the petition under 37 C.F.R. §1.10(c) is **GRANTED**.

The National Stage papers were received by the USPTO on 06 November 2001.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and according a 35 USC 371(c)(1), (c)(2), and (c)(4) date for this application as **06 November 2001.**

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

04 NOV 2003

#3

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William G. Bruns
Polster, Liedner, Woodruff & Lucchesi, L.C.
763 South New Ballas Road
St. Louis, MO 63141

In re Application of :
McKENNA et al. :
Application No.: 10/474,102 :
PCT No.: PCT/US01/23662 :
Int. Filing Date: 27 July 2001 : DECISION
Priority Date: 28 July 2000 :
Attorney Docket No.: MCKE7453U1 :
For: POUR SPOUT ATTACHMENT FOR PACKAGES:

This decision is in response to applicants' "Petition for Acceptance of National Application Filed From PCT Application and Lost in the USPTO as of the Express Mail in Date of the National Application and for Waiver of Petition Fee" filed 07 October 2003, which is being treated as a petition under 37 CFR 1.10(e).

BACKGROUND

On 27 July 2000, applicants filed international application PCT/US01/23662, which claimed a priority date of 28 July 2000. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 January 2003.

On 28 January 2003, applicants filed a Transmittal Letter (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee; copy of the international application; and an executed declaration. These application papers were assigned application number 10/343,194.

On 07 October 2003, applicants filed "Petition for Acceptance of National Application Filed From PCT Application and Lost in the USPTO as of the Express Mail in Date of the National Application and for Waiver of Petition Fee" requesting that the copy of the application papers accompanying the communication and purportedly filed by Express Mail on 28 January 2003 be accepted as having been received on 23 October 2001 and processed. This submission was treated as a new application and assigned application number 10/474,102.

DISCUSSION

Upon review of both application files, it is concluded that the papers filed 07 October 2003 were erroneously processed as a purported new application and assigned application No. 10/474,102. Accordingly, the papers filed on 28 January 2003 have been placed in application number 10/474,102. Purported application 10/343,194 is no longer an active application number and should not be used in any future correspondence regarding this application. Therefore, the petition under 37 CFR 1.10 is dismissed as moot since the original papers filed on 28 January 2003 have been located.

Applicant should use application number **10/474,102** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/US01/23662.

CONCLUSION

The petition under 37 CFR 1.10 to accept the copy of the national stage papers submitted on 02 October 2003 in lieu of the original is **DISMISSED** as moot.

The application has an international filing date of 27 July 2001 under 35 U.S.C. 363 and a date of 28 January 2003 under 35 U.S.C. 371.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **28 January 2003** under 35 U.S.C. 371.

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

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,432,790 :
Issue Date: October 7, 2008 :
Application No. 10/474,103 : DECISION ON PETITION
Filed: February 27, 2004 :
Attorney Docket No. 47192/292726 :

This is a decision on the Request To Correct The Assignee Under 37 CFR 3.81(b), filed on January 14, 2009, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Pate of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct name of the assignee's name identified thereon from:

"VACUUMSCHMELZE GMBH & CO. KG"

to:

--EUROPEAN HIGH TEMPERATURE SUPERCONDUCTORS GMBH & CO. KG--

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(h), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the present Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,432,790.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

15 APR 2

#4

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Edward M. Kriegsman
KRIEGSMAN & KRIEGSMAN
665 Franklin Street
Framingham, MA 01702

In re Application of :
BENOIT, James *et al* :
U.S. Application No.: 10/474,105 :
PCT No.: PCT/US01/10710 :
Int. Filing Date: 04 April 2001 :
Priority Date: None :
Attorney Docket No.: 81542PCT/US :
For: APPARATUS FOR DISPENSING :
INDIVIDUAL PLASTIC FASTENERS :
FROM FASTENER STOCK :

DECISION ON PETITION UNDER 37 CFR 1.42

This is a decision on the declaration filed 01 April 2004 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 30 January 2004, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) was required. A two-month time limit was set for response with extensions of time available.

On 01 April 2004, applicants filed the instant response which included a declaration signed by two of the three joint inventors and by the legal representative of a deceased joint inventor and a check of $130.00 to charge the surcharge fee.

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.

In the instant response, applicants have furnished a declaration signed by two of the three joint inventors and by Marilyn Bone Kloss as the legal representative of a deceased joint inventor, Arnold R. Bone.

A review of the declaration reveals that the residences, mailing addresses and citizenship of all the inventors, including the deceased inventor, are listed on the declaration pursuant to 37 CFR 1.497(a)(3). In addition, the citizenship and residence and mailing address of the legal representative is recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

This declaration complies with the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

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

The application has an international filing date of 04 April 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c4) date of 01 April 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
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Morrison & Foerster
Suite 500
3811 Valley Centre Drive
San Diego, CA 92130-2332

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OFFICE OF PETITIONS

In re Application of	:	
Rudolf Franciscus Wilhelmus Cornelis Van Beckhoven et al.	:	
Application No. 10/474,113	:	DECISION ON PETITION
Filed: October 6, 2003	:	TO WITHDRAW
Attorney Docket No. 246152020800	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with the Morrison & Foerster has been revoked by the assignee of the patent application on September 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon & Vanderhye, PC**
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
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/474,113	10/06/2003	Rudolf Franciscus Wilhelmus Cornelis Van Beckhoven	246152020800

CONFIRMATION NO. 5967

OC000000021387494

OC000000021387494

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

Date Mailed: 11/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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10/474,113	10/06/2003	Rudolf Franciscus Wilhelmus Cornelis Van Beckhoven	246152020800

CONFIRMATION NO. 5967

OC000000021387496

OC000000021387496

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

Date Mailed: 11/28/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2006.

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

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10/474,113	10/06/2003	Rudolf Franciscus Wilhelmus Cornelis Van Beckhoven	246152020800

CONFIRMATION NO. 5967

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Kate H Murashige
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Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

NEW ATTORNEY/AGENT COPY

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

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OFFICE OF PETITIONS

In re Application of	:	
Rudolf Franciscus Wilhelmus Cornelis Van Beckhoven et al.	:	
Application No. 10/474,113	:	DECISION ON PETITION
Filed: October 6, 2003	:	TO WITHDRAW
Attorney Docket No. 246152020800	:	FROM RECORD
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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 Morrison & Foerster has been revoked by the assignee of the patent application on September 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T Williams
Terri Williams
Petitions Examiner
Office of Petitions

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/474,113	10/06/2003	Rudolf Franciscus Wilhelmus Cornelis Van Beckhoven	246152020800

CONFIRMATION NO. 5967

OC000000021387494

OC000000021387494

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

Date Mailed: 11/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/474,113	10/06/2003	Rudolf Franciscus Wilhelmus Cornelis Van Beckhoven	246152020800

CONFIRMATION NO. 5967

OC000000021387496

OC000000021387496

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

Date Mailed: 11/28/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2006.

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

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SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Constatini, Anne	:	
Application No. 10/474,135	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. 37261P088	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 2, 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 a Request for Continued Examination (RCE) (submission under 37 CFR 1.114 was previously submitted on April 11, 2006); (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 processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **FEBRUARY 7, 2007**

TO SPE OF : ART UNIT **3745**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10474137** Patent No.: **6872049B2**

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: _____

_____

_____

_____

_____

Ed Tolbert — **SPE**

3745 — **Art Unit**

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Robert C Fahey	: DECISION ON REQUEST FOR
Patent Number	: 7642280	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/474,138	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **849** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

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In re Patent No. 6,848,972	:	
Issue Date: February 1, 2005	:	
Application No. 10/474,140	:	DECISION ON PETITION
Filed: October 2, 2003	:	
Attorney Docket No. 08373.0312USWO	:	

This is a decision on the petition filed January 24, 2008 which is being treated under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

1761 / DPW
Ignyo

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JAN 17 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ulrich WALTER

Serial No.: 10/474,144

Filing Date: 03 October 2003

Title: METHOD AND SYSTEM FOR PREPARING EXTRACTION MEAL FROM SUN FLOWER SEEDS FOR ANIMAL FEED

Customer No.: 42419

1761
Shah, Chirag

DECLARATION OF ULRICH WALTER IN SUPPORT OF PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE (37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02 IV)

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

Applicant hereby petitions the Commissioner to grant special status to this U.S. Patent Application for advancing examination pursuant to 37 C.F.R. § 1.102(c) because the undersigned Applicant is over 65 years of age. In support of Applicant's petition, Declarant states as follows.

Declarant is over 65 years of age.

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 13 JAN 2006

13 JAN 2006
Date

Signature

FEB 9 2006

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700

01 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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John E. Vandigriff
190 N. Stemmons Freeway
Suite 200
Lewisville, Texas 75067

In re Application of	
Dennis Taylor	
Application No.: 10/474149	
PCT Application No.: PCT/AU02/00417	DECISION ON
International Filing Date: 02 April 2002	
Priority Date: 02 April 2001	PETITION UNDER
Attorney Docket No.: TAY101	
For: Enantiomereically Selective Cyclopropanation	37 CFR 1.137(b)

This is in response to applicant's petition under 37 CFR 1.137(b) filed on 20 April 2004, to revive the above identified application.

BACKGROUND

On 02 April 2002, applicant filed international application number PCT/AU02/00417 which claimed priority to an earlier filed Australian Provisional application PR4134 filed on 02 April 2001.

On 02 October 2003, applicant filed for national stage application with the United States Patent and Trademark Office.

On 02 October 2003, the international application became abandoned with respect to the failure to pay national stage fee within 30 months from priority date of the international application.

On 01 January 2004, the United States Patent and Trademark Office issued a Notification of Abandonment for failure to pay the full US Basic National fee.

On 20 April 2004, applicant submitted a response to the notice of abandonment along with a petition for revival.

DISCUSSION

On 02 October 2003, applicant submitted a fee of $460 (small entity) for entry into the National Stage application in the United States. Applicant inadvertently submitted the wrong fee

amount. The correct fee that should of been submitted was $540 (small entity) because neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2) paid to USPTO and International Search Report not prepared by the EPO or JPO. Applicant had submitted the Basic National fee associated international preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search prepared by the EPO or JPO.

On 03 February 2004, applicant allegedly contacted the United States Patent and Trademark Office and was allegedly informed that the amount of underpayment was $70. Applicant was apparently misinformed of the amount of underpayment. Effective October 1, 2003, the fee for a National Stage application was $540. Therefore the difference owed by the applicant is $80. Since applicant has not supplied a charge deposit account, the application will still stay abandoned until the proper amount of underpayment has been provided.

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

On 20 April 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137(b). Filed with the present petition were, inter alia: (1) the requisite $665 Petition fee (small entity); (2) a check in the amount of $70 for the remainder of the basic National Fee; and (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional,".

The application and papers have been reviewed and in that applicant has not submitted the full basic National Fee as discussed above have been found to be not in compliance with 37 CFR 1.137 (b).

Applicant requests that since there was not a notification of insufficient fee that the petition to revive should be treated as unavoidable, instead of unintentionally. Unlike applications filed under 35 U.S.C. 111, there is no provision for late submission of the filing fee along with a surcharge for the late payment in applications filed under 35 U.S.C. 371. Since the basic National Fee was paid by Applicant of 02 October 2003, which is the last day that payment could of been received to avoid abandonment for failure to pay the basic national fee within 30 months from priority date of the international application, even if a notification of deficient payment had been mailed on the same day, applicant would not have received it in time to avoid abandonment.

Additionally, the Declaration submitted by applicants on 20 May 2004 is defective.

37 CFR § 1.64 Person making oath or declaration.
(a) The oath or declaration (§ 1.63), including any supplemental oath or declaration (§ 1.67), must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43, 1.47, or § 1.67.

Applicant has not submitted any statement or reasoning as to why the attorney signed the declaration on behalf of the applicant. There is no indication that the applicant has refused to sign, was unavailable or deceased as provided for in sections 37 CFR 1.42, 1.43, 1.47, or § 1.67.

CONCLUSION

The petition to revive the international application under 37 CFR 1.137 (b) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.37(b)." No petition fee is due. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include the deficient fees and a proper declaration under 37 CFR 1.497.

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, and USA and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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John E. Vandigriff
190 N. Stemmons Freeway
Suite 200
Lewisville, Texas 75067

In re Application of :
Dennis Taylor :
Application No.: 10/474149 :
PCT Application No.: PCT/AU02/00417 : DECISION ON
International Filing Date: 02 April 2002 :
Priority Date: 02 April 2001 : RENEWED PETITION
Attorney Docket No.: TAY101 : UNDER
For: Enantiomereically Selective : ~~37~~ CFR 1.137(b)
Cyclopropanation :

This is in response to applicant's renewed petition under 37 CFR 1.137(b) filed on 19 July 2004, to revive the above identified application.

BACKGROUND

On 02 April 2002, applicant filed international application number PCT/AU02/00417 which claimed priority to an earlier filed Australian Provisional application PR4134 filed on 02 April 2001.

On 02 October 2003, applicant filed a national stage submission with the United States Patent and Trademark Office but failed to include full payment of the basic national fee.

The international application became abandoned on 03 October 2003 accordingly for failure to pay national stage fee within 30 months from priority date of the international application 37 CFR 1.495(b).

On 01 January 2004, the United States Patent and Trademark Office issued a Notification of Abandonment for failure to pay the full US Basic National fee.

On 20 April 2004, applicant submitted a response to the notice of abandonment along with a petition for revival.

On 01 July 2004, the United States Patent and Trademark Office issued a decision dismissing the above petition for revival.

The instant renewed petition follows.

DISCUSSION

The decision mailed 01 July 2004 required payment of the deficient fees and a proper declaration under 37 CFR 1.497.

Applicant has now complied with this requirement in the form of a check in the amount of $10 for the deficient fee and a declaration in compliance with 37 CFR 1.497 (a) and (b), plus $65 surcharge (small entity) for furnishing the oath or declaration later than 30 months from the earliest priority date.

CONCLUSION

The renewed petition to revive the international application under 37 CFR 1.137 (b) is GRANTED.

This application is being forwarded to the National Stage Processing Division for further processing including according the application a 35 USC 371 date of 19 July 2004.

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-3659
Facsimile: (703) 308-6459

23 FEB 2004

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Andrew L. Tiajoloff
Tiajoloff & Kelly
Chrysler Building, 37th Floor
405 Lexington Avenue
New York, NY 10174

In re Application of	
TATSUHIRO, Sato et al.	
Application No.: 10/474,150	DECISION
PCT No.: PCT/EP02/00302	
Int. Filing Date: 14 January 2002	ON PETITION UNDER
Priority Date: 19 January 2001	
Docket No.: 37904-0053	37 CFR 1.137(b)
For: TRANSPARENT CERAMICS AND METHOD FOR PRODUCING THE SAME	

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 29 September 2003 is **GRANTED**.

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

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. The fee for late submission of the oath or declaration will be charged to deposit account no. 50-1659, 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 29 September 2003 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

10 MAR 2004

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Nils H. Ljungman
Nils H. Ljungman & Associates
P.O. Box 130
Greensburg, PA 15601

In re Application of	:	
BRUNING, Jurgen	:	
Application No.: 10/474,151	:	
PCT Application No.: PCT/EP01/03048	:	DECISION ON
International Filing Date: 16 March 2001	:	
Priority Date: 04 April 2000	:	PETITION
Attorney Docket No.: NHL-KK-41-NP	:	
For: PLASTIC FOAM PRODUCTS CONSISTING OF BEADS	:	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 United States Patent and Trademark Office on 02 October 2003 is GRANTED.

BACKGROUND

On 16 March 2001, applicant filed international application number PCT/EP01/03048, claiming priority of an earlier German application, filed on 04 April 2000. A copy of the international application was transmitted by the International Bureau on 11 October 2001. A demand was filed electing the United States of America on 11 July 2001. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 04 October 2002, with the result that the international application became abandoned as to the United States of America on that date.

On 02 October 2003, the present petition to revive was submitted with a petition fee of $1330.00. On 02 October 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, inventor declaration, and translation of the application.

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 "[t]he 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).

With regard to item (2) above, applicant filed the national stage filing papers and fees on 02 October 2003.

With regard to item (3) above, applicants have furnished the required petition fee of $1330.00.

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.

With respect to applicant's inventor declaration, which incorporates German language text, applicant is referred to 37 CFR 1.69(a) and (b). Under 37 CFR 1.69(a), the declaration must be in a language that the declarant understands and shall state that the declarant understands the content of any documents to which the declaration relates. Furthermore, under 37 CFR 1.69(b) the text of a declaration in a language other than English, unless in a form provided or approved by the United States Patent and Trademark Office, must be accompanied by an English translation certified as accurate.

Applicant's declaration incorporates German language text without providing a certified translation of the text. The declaration is not in a form provided or approved by the United States Patent and Trademark Office. Therefore, the declaration is unsatisfactory for meeting the requirements of 37 CFR 1.69.

A certified translation and/or new declaration must be provided in order to meet the requirements of 37 CFR 1.69(a) and (b). Where inventor understands English, a certified translation of the already filed declaration or a conforming new declaration must be filed. Where inventor does not understand English, a conforming new declaration must be filed. Applicant may choose to utilize approved German language form PTO/SB/103 available on the USPTO website, www.uspto.gov.

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.

A proper inventor declaration 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).

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

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
HILLS, et al. :
Application No. 10/474,155 : DECISION GRANTING PETITION
Filed: October 1, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **APPL0007** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 29, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 11, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2129 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

Edward Charles Mendler
7 Millside Lane
Mill Valley, CA 94941

In re Application of Edward Charles MENDLER Application No.: 10/474,156 PCT Application No.: PCT/US01/29216 International Filing Date: 14 September 2001 Priority Date: 29 September 2000 Attorney Docket No.: VVTB For: VALVE CONTROL APPARATUS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "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 01 October 2003 is **GRANTED**.

BACKGROUND

On 14 September 2001, applicant filed international application PCT/US01/29216. The international application claims a priority date of 29 September 2000 and designates the United States. A copy of the international application was furnished for the United States National Stage by the United States Receiving Office (RO/US). The deadline for payment of the basic national fee to avoid application was thirty months from the priority date, that is 31 March 2003 (29 March 2003 falls on a Saturday). Applicant missed this deadline.

On 01 October 2003, applicant filed the instant petition to revive accompanied by, *inter alia*,: the requisite basic national fee for entry into the national stage, a declaration of the inventor, and a petition fee for the instant petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Payment of the basic national fee constitutes a proper reply.

Applicant's petition 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," which satisfies the requirement under 37 CFR 1.137(b)(3). The payment of the petition fee ($665) satisfies the requirement under 37 CFR 1.137(b)(2). The submission of the national fee constitutes a proper response and therefore satisfies the requirement under 37 CFR 1.137(b)(1). 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.

Payment of the national stage fee satisfies 35 U.S.C. 371(c)(1). The copy of the international application furnished by the United States Receiving Office satisfies 35 U.S.C. 371 (c)(2). The filed declaration of the inventor satisfies 35 U.S.C. 371(c)(4).

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 14 September 2001 under 35 U.S.C. 363 and a date of 01 October 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

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CHARLES MENDLER
7 MILLSIDE LANE
MILL VALLEY, CA 94941

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Edward Charles Mendler :
Application No. 10/474,156 :
Filed: October 1, 2003 :
Attorney Docket No. VVTB :

ON PETITION

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

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed October 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 15, 2005.

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

Effective December 8, 2004, the Issue Fee (Small Entity) increased to $700. Petitioner submitted $685 by check on June 3, 2005, which leaves a balance of $15. The petition to revive can not be granted until the $15 balance has been received.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions
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 MENDLER
7 MILLSIDE LANE
MILL VALLEY, CA 94941

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NOV 03 2006
OFFICE OF PETITIONS

In re Application of	:	
Edward Charles Mendler	:	
Application No. 10/474,156	:	ON PETITION
Filed: October 1, 2003	:	
Attorney Docket No. VVTB	:	

This is a decision on the paper filed July 14, 2005, which is being treated as a renewed petition under 37 CFR 1.137(b) 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 fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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DEC 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Zacché et al.	:	
Application No. 10/474166	:	DECISION
Filing or 371(c) Date: 04/26/2004	:	ON PETITION
Patent No.: 7107766	:	
Issue Date: 09/19/2006	:	
Attorney Docket No.: 82062.0063	:	

This is a decision on the correspondence entitled "Petition Under 37 C.F.R. 3.81(b)," filed October 30, 2007, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that SIG Simonazzi S.P.A., is the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Douglas E Denninger
United States Surgical a division of
Tyco Healthcare Group
150 Glover Avenue
Norwalk CT 06856

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Tetzlaff et al. :
Application No.: 10/474170 : DECISION ON
Filing or 371(c) Date: 03/10/2004 : PETITION
Title of Invention: :
VESSEL SEALING INSTRUMENT :

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed December 3, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed February 27, 2007. The Office communication set a one (1) month or 30 day period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 28, 2007. A Notice of Abandonment was mailed November 2, 2007.

Applicant files the present petition and Amendment in response to the Office communication. The Examiner has approved the Amendment. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3739 for processing of the reply to the Office communication filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

29 JUL 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Douglas E Denninger
United States Surgical a division of
Tyco Healthcare Group
150 Glover Avenue
Norwalk CT 06856

In re Application of	:	
TETZLAFF, Philip Mark et al.	:	
U.S. Application No.: 10/474,170	:	DECISION ON
PCT No.: PCT/US2001/011420	:	
Int'l Filing Date: 06 April 2001	:	PETITION
Priority Date: None	:	
Attorney's Docket No.: 2175 CIP 2	:	UNDER 37 CFR 1.181
For: VESSEL SEALING INSTRUMENT	:	

Applicants filed "Request For Corrected Filing Receipt," on 24 September 2007. The Request has been treated as a petition under 37 CFR 1.181.

As set forth in MPEP 1893.03(b), the filing date of a national phase of a PCT is the international filing date. The date that appears in the "filing or 371(c) date" field of the filing receipt is the date of completion of the 35 U.S.C. §371 (c) requirements. Applicants supplied a declaration of the inventors and completed the 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) requirements on 10 March 2004. The date on the filing receipt is correct. Applicant is not entitled to a filing date of 03 October 2003, as at that point, applicants had not furnished an oath or declaration of the inventors.

For the above reasons, the Petition Under 37 CFR 1.181 is **DISMISSED** without prejudice. Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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UNITED STATES DEPARTMENT OF COMMERCE
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Joseph M. Sauer
Jones Day
901 Lakeside Avenue / North Point
Cleveland, OH 44114

Mail Date: 04/21/2010

Applicant	: Herbert A. Little	: DECISION ON REQUEST FOR
Patent Number	: 7610045	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/474,174	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

17 JAN 2006

Commissioner for Patents
United States Patent and Trademark Office
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00466
YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of :
SERVAL, Thomas *et al* :
U.S. Application No.: 10/474,185 :
PCT No.: PCT/FR02/01202 :
Int. Filing Date: 05 April 2002 :
Priority Date: 05 April 2001 : **DECISION**
Attorney Docket No.: 0510-1080 :
For: RADIO COMMUNICATION :
INTERFACE MODULE, AND ITS USE :
IN A DEVICE READING, :
PROCESSING, TRANSMITTING AND :
OPERATING ON A BAR CODE :

This decision is in response to applicants' "Petition Under 37 CFR §1.47(a)" filed with the United States Designated/Elected Office (DO/EO/US) on 07 September 2004.

BACKGROUND

On 04 March 2004, the 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 respond with extensions of time available.

On 07 September 2004, applicants filed a response which was accompanied by, *inter alia*, the petition fee; a petition under 37 CFR 1.47(a); a four-month extension and fee; a declaration signed by two of the three joint inventors; a declaration by Mr. Alain Catherine; and documentary evidence with 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 nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the fee for a petition under 37 CFR 1.47 has been paid.

Regarding item (2), the 37 CFR 1.47(a) applicants submitted a declaration by Mr. Alain Catherine who claims that a copy of the application and declaration were sent to the last known address of the nonsigning inventor, Mr. Sylvain Gommier. Petitioners provided copies of cover letters dated 24 June 2004 and 21 July 2004 along with a copy of the postal receipt for the June correspondence.

Mr. Catherine also claims that he verified that Mr. Gommier was no longer living at the address and that "an extended search in the geographical area did not produced any result." Copies of a search for Mr. Gommier in the French yellow pages on the internet was provided. Mr. Catherine also indicates that previous requests to contact Mr. Gommier at his last professional address were made. Copies of these letters were also provided with accompanying English translations.

A review of this evidence shows that it is satisfies the "diligent effort" standard and other requirements outlined in section 409.03(d) of the MPEP. Thus, item (2) of 37 CFR 1.47(a) is complete.

With regards to item (3), the last known address of the nonsigning joint inventor, Mr. Sylvain Gommier, is listed as:

4, rue Scipion
75005 Paris, France

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by two of the three joint inventors on behalf of both nonsigning joint inventor. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' 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 05 April 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 07 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.: (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
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17 JAN 2006

Mr. Sylvain Gommier
4, rue Scipion
75005 Paris, France

In re Application of
SERVAL, Thomas *et al*
U.S. Application No.: 10/474,185
PCT No.: PCT/FR02/01202
Int. Filing Date: 05 April 2002
Priority Date: 05 April 2001
Attorney Docket No.: 0510-1080
For: RADIO COMMUNICATION INTERFACE MODULE, AND ITS USE IN A DEVICE READING, PROCESSING, TRANSMITTING AND OPERATING ON A BAR CODE

Dear Mr. Gommier:

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.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

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FEB - 8 2007

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

In re Application of	:
Takashi Nakagawa et al	:
Serial No.: 10/474,194	: SUSPENSION OF ACTION
Filed: October 16, 2003	:
Attorney Docket No.: 243737US0X	:

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 January 16, 2007.

§ 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 in order to obtain experimental data material to the examination of the application. Applicants provide no indication what experimental date is being developed or what is expected to be provided. No mention of any experimental data to be developed is found in the response accompanying the filing of the RCE papers on January 16, 2007. It is also noted that a Final office action issued on June 16, 2006, and applicants have offered no reason as to why the experimental data is needed and could not have been developed in the intervening months prior to filing of the RCE papers and this petition. Applicants have expressed a potential good and sufficient reason for suspension, but have provided no evidence or argument in support thereof.

In view of the above reason the petition is **DISMISSED**. Applicants may submit a renewed petition for reconsideration of this decision addressing the above noted deficiencies within TWO MONTHS of the mailing date of this decision. No additional petition fee would be required.

The application will be forwarded to the examiner for further consideration. It is noted that the RCE papers did not request a three month suspension under 37 CFR 1.103(c).

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

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

MAILED

APR 09 2010

OFFICE OF PETITIONS

In re Patent of Nakagawa et al.	:	DECISION ON APPLICATION
Patent No. 7,504,415	:	FOR RECONSIDERATION OF
Issue Date: March 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/474,194	:	AND NOTICE OF INTENT TO
Filing Date: October 16, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 341155US0SD	:	CORRECTION

This is a decision on the petition filed May 11, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by six hundred fifteen (615) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by six hundred fifteen (615) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction showing a patent term adjustment of 511 days. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

The application matured into United States Patent No. 7,504,415 with a revised patent term adjustment of 481 days on March 17, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent. A review of the record indicates a terminal disclaimer was filed during the prosecution of the application.

Patentees assert the correct patent term adjustment is 615 days. Patentees assert the Office incorrectly failed to increase the patent term adjustment as a result of Office delay pursuant to 35 U.S.C. § 154(b)(1)(B) ("B Delay) and assert the Office incorrectly reduced the patent term adjustment by 42 days as a result of a Supplemental Application Data Sheet ("ADS") filed February 4, 2009.

The Patent Term Adjustment Should Have Been Increased by 30 Days for B Delay

The date of commencement for the application is October 16, 2003. Patentees filed a Request for Continued Examination ("RCE") on January 16, 2007. The patent issued March 17, 2009.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B Delay, the over three year period began on October 17, 2006, and ended on January 15, 2007, *the day before* the RCE was filed, and is 91 days, not 92 days. *See* 35 U.S.C. § 154(b)(1)(B)(i).

Per 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The time period consumed by appellate review was 61 days.

The period of B Delay is 30 (91 - 61) days.

The period of overlap between delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay is 0 days.

In view of the prior discussion, the patent term adjustment should have included an increase of 30 days for B Delay.

The 42-Day Reduction for the February 4, 2009 Supplemental ADS Was Proper

The Office mailed a Notice of Allowance on January 13, 2009.

On February 4, 2009, more than five years after patentees originally filed a declaration and ADS, patentees filed a Supplemental ADS. The Supplemental ADS changed the residential and mailing addresses for all three inventors.

The patent issued March 17, 2009.

37 C.F.R. § 1.704(c)(10) states,

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

Pursuant to 37 C.F.R. § 1.704(c)(10), the patent term adjustment was reduced by 42 days as a result of the filing of the Supplemental ADS.

Patentees assert the filing of the Supplemental ADS does not support a reduction in patent term adjustment.

M.P.E.P. § 2732 states,

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.... Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. *See Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).
>
> The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application:
>
> (1) Fee(s) Transmittal (PTOL- 85B);
> (2) Power of Attorney;
> (3) Power to Inspect;
> (4) Change of Address;
> (5) Change of Status (small/not small entity status);
> (6) 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;" and
> (7) letters related to government interests (e.g., those between NASA and the Office).

As indicated in M.P.E.P. § 2732, the Office does not consider the submission of a "Change of Address" after the mailing of a Notice of Allowance to be a failure to engage in reasonable efforts to conclude processing or examination of an application. Patentees assert the Supplemental Application Data Sheet is the equivalent of a change of address. However, the Supplemental ADS did not change the correspondence address for the Office to use when mailing correspondence pertaining to the application. Instead, the Supplemental ADS changed the residential and mailing addresses for the three inventors. Therefore, the Supplemental ADS is not a "Change of Address."

Application Data Sheets are not one of the papers the Office has determined will not be considered a failure to engage in reasonable efforts to conclude the processing or examination of the application. Therefore, the Office properly entered a reduction of 42 days, which is the number of days beginning on the date the Application Data Sheet was filed, February 4, 2009, and ending on the date the patent issued, March 17, 2009.

Conclusion

As previously discussed, an increase in patent term adjustment of 30 days for B Delay is warranted.

As previously discussed, the reduction in patent term adjustment of 42 days pursuant to 37 C.F.R. § 1.704(c)(10) for the Supplemental Application Data Sheet filed February 4, 2009, was proper.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred eleven (511)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,504,415 B2
ISSUE DATE	:	March 17, 2009
INVENTOR(S)	:	Nakagawa et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 481 days.

Delete the phrase "by 481 days" and insert - by 511 days--

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Siegfried Topf :
Application No. **10/474197** : ON PETITION
Filing or 371(c) Date: **02/04/2005** :
Attorney Docket Number: :
03177 :

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 July 12, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed March 29, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on June 30, 2006. A Notice of Abandonment was mailed July 5, 2006.

Applicant has submitted the issue and publication fees with the instant petition. Accordingly, the petition is granted.

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

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

Derek L. Woods
Attorney
Office of Petitions

16 JUN 2004

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COMMISSIONER FOR PATENTS
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#5

Carol Larcher
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780

In re Application of	:	
Robets et al.	:	
Application No.: 10/474,213	:	**DECISION ON**
PCT No.: PCT/US02/10535	:	
International Filing Date: 03 April 2002	:	**REQUEST UNDER**
Priority Date: 06 April 2001	:	
For: USE OF SEMENOGELIN IN THE DIAGNOSIS, PROGNOSIS AND TREATMENT OF CANCER	:	**37 CFR 1.42**

This is a decision on the papers filed on 20 April 2004 which have been treated as a request under 37 CFR 1.42.

Background

On 06 Otober 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1). A copy of the international application as required by 35 U.S.C. 371(c)(2) was submitted by the International Bureau to the United States Patent and Trademark Office on 06 October 2003. An oath as required by 35 U.S.C. 371(c)(4) was not filed.

On 23 February 2004, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, a surcharge for providing the oath or declaration later than 30 months from the priority date, and a late oath or declaration surcharge must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later. The period for response expired 23 April 2004, two months from the mail date of the Notification.

On 20 April 2004, in response to the Notification, applicants submitted a Declaration and Power of Attorney signed by one of the two inventors. The declaration was also signed by Christine Krutzsch acting as the legal representative of the deceased inventor, Henry C. Krutzsch. The requisite surcharges of $130.00 for filing the declaration later than 30 months from the priority date and providing a late oath or declaration were also submitted.

Conclusion

The above application and papers have been reviewed. The declaration filed 20 April 2004 has been found in compliance with 37 CFR 1.42.

The declaration filed 20 April 2004 under 37 CFR 1.42 is **ACCEPTED**.

Applicants have satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 03 April 2002 under 35 U.S.C. 363 and a date of 20 April 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Jim Foster
Detail
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

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United States Patent and Trademark Office
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: David D. Roberts	: DECISION ON REQUEST FOR
Patent Number	: 7618789	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/474,213	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1148** 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

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Andrew J. Tiajoloff
Tiajoloff & Kelly
Chrysler Building, 37th Floor
405 Lexington Avenue
New York City, NY 10174

In re Application of	
SATO, Tatsuhiro	
Application No.: 10/474,217	
PCT Application No.: PCT/EP02/00303	DECISION ON
International Filing Date: 14 January 2002	
Priority Date: 19 January 2001	PETITION
Attorney Docket No.: 37904-0052	
For: TRANSPARENT CERAMIC AND METHOD FOR PRODUCING THE SAME	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 United States Patent and Trademark Office on 29 September 2003 is GRANTED.

BACKGROUND

On 14 January 2002, applicant filed international application number PCT/EP02/00303, claiming priority of an earlier Japanese application, filed on 19 January 2001. A copy of the international application was transmitted by the International Bureau on 25 July 2002. The United States of America was designated in the Request, and no Demand was filed. The thirty month period for paying the basic national fee in the United States expired at midnight on 19 September 2003, with the result that the international application became abandoned as to the United States of America on that date.

On 29 September 2003, the present petition to revive was submitted with authorization to pay the petition fee. On 29 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 and 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 filing the required reply from the due date for the required reply 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 29 September 2003.

With regard to item (3) above, applicant has provided 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.

Further, a review of the application file reveals that all of the requirements of 35 USC 371 for entry into the National Stage in the United States have also 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 14 January 2002 under 35 U.S.C. 363 and a date of 29 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.

Michael La Villa
Detailee
Office of PCT Legal Administration

Telephone: (703) 308-6162
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Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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GLENN PATENT GROUP
SUITE L
3475 EDISON WAY
MENLO PARK, CA 94025

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JUN 0 6 2008

In re Application of	:	
Robert M. FUNG, et al	:	
Application No. 10/474,219	:	DECISION ON PETITION
Filed: April 27, 2004	:	TO WITHDRAW
Attorney Docket No. ISAA0014	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does 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, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, Fair Isaac requested to transfer to another law firm, does not meet any of the conditions set forth in 37 CFR 10.40, since the assignee has not properly intervened.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The Office cannot approve the request because the attorneys/agents of record were not appointed by Customer No. 22862.

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

Inquiries concerning this decision should be directed to the undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ATTN: JAMES CLEARY
9255 TOWNE CENTRE DRIVE, SUITE 600
SAN DIEGO, CA 92121

17 JUN 2004

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Patent Counsel
United States Surgical, a division of
TYCO Healthcare Group LP
150 Glover Avenue
Norwalk, CT 06856

In re Application of	:	
TETZLAFF, et al.	:	DECISION ON PETITION
Application No.: 10/474,227	:	
PCT No.: PCT/US01/11218	:	UNDER 37 CFR 1.182
Int. Filing Date: 06 April 2001	:	
Priority Date: 06 April 2000	:	
Atty. Docket No.: 2175 CIP 3	:	
For: VESSEL SEALING FORCEPS WITH DISPOSABLE ELECTRODES	:	

This decision is in response to applicant's "Petition to Correct Inventorship Under 37 C.F.R. § 1.48(a)" filed 20 May 2004 in the United States Patent and Trademark Office (USPTO). For the reasons detailed below the petition is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 10 February 2004, applicant was mailed a communication informing applicant that the filed combined declaration and power of attorney contained a discrepancy as to the fourth listed inventor. Specifically the published international application listed the fourth inventor as Richard J. SMITH whereas the field declaration identified the inventor as Roger F. SMITH. Applicant was afforded two months to file a petition under 37 CFR 1.182 to correct the discrepancy.

On 20 May 2004, applicant filed the present petition. Applicant has authorized deduction of the appropriate extension of time fee and therefore the response is considered timely filed.

DISCUSSION

Applicant has filed a petition under 37 CFR 1.48. However, this regulation applies to instances where an inventor was erroneously omitted from the application. In the case at hand the inventor was identified, albeit incorrectly. In these instances the proper remedy is a petition under 37 CFR 1.182. Applicant's petition will be treated as such. Applicant has provided the payment of the $130.00 petition fee.

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The submitted papers are in effect offering the explanation that Richard J.

Smith and Roger F. Smith are one and the same person and requesting that the name of the fourth named joint inventor be changed to Roger F. Smith. Mr. Smith has attested that his name is Roger F. Smith and declared that the error in the published international application occurred without any deceptive intent.

The papers have been reviewed and the papers are accepted.

The declaration submitted on 03 October 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Richard J. Smith to Roger F. Smith is **GRANTED**.

As authorized the $420.00 extension of time fee will be charged to Deposit Account No.: 21-0550.

The application has an international filing date of 06 April 2001 under 35 U.S.C. 363 and will be given a date of **03 October 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: (703) 305-0130
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PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO, IL 60606

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Application of :
NEWPORT, Colin et al. :
Application No. 10/474,238 : DECISION ON PETITION
Filed: May 04, 2004 : TO WITHDRAW
Attorney Docket No. **BCG 0003 US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 23, 2010.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to PATZIK, FRANK & SAMOTNY LTD. has been revoked by the assignee of the patent application on January 18, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **IPHORGAN, LTD.**
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE IL 60089

12 MAR 2004

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Sheridan Neimark
BROWDY & NIEMARK, P.L.L.C.
624 Ninth Street, N.W., Suite 300
Washington, DC 20001

In re Application of	:	
BACHMANN, Roland	:	
Application No.:10/474,257	:	
PCT Application No.: PCT/CH02/00119	:	DECISION ON
International Filing Date: 27 February 2002	:	
Priority Date: 28 February 2001	:	PETITION
Attorney Docket No.: BACHMANN2	:	
For: PAINTING SHEET AND A METHOD FOR PRODUCING THE SAME	:	UNDER 37 CFR 1.137(b)

Applicant's "Petition To Revive Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 08 October 2003 is **GRANTED**.

BACKGROUND

On 27 February 2002, applicant filed international application number PCT/CH02/00119. This application claims priority of a Swiss application that was filed on 28 February 2001. 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 28 August 2003.

On 08 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a PTO-2038 Form authorizing payment by credit card in the amount of $1,150, which covers both the basic national fee and the petition fee for a small entity.

On 17 October 2003, the USPTO Finance Division successfully charged $1,150 to the appropriate credit card.

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.

The petition states, "the entire delay in filing the papers necessary to perfect the completion of entry into the U.S. national phase of this case from the due date for entry into the U.S. national phase (due on August 28, 2003) until the filing of this grantable petition, 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.

The other requirements for a grantable petition under 37 CFR 1.137(b) have also been satisfied. 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. Finally, a terminal disclaimer is not required because the application was filed on or after 08 June 1995.

CONCLUSION

The petition under 37 CFR 1.137(b) to revive the application abandoned as to the National Stage in the United States of America is **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, the surcharge for late filing of the oath or declaration, an English-language translation of the international application, and the fee for late filing of the English-language translation are due.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/474,267	10/06/2003	James David Kevern	17654

CONFIRMATION NO.
2111

Stephen J Driscoll
Tyco Technology Resources
Suite 140
4550 New Linden Hill Road
Wilmington DE 19808

Date Mailed: July 20, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

05 APR 2004

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Joseph R. Robinson
Darby & Darby
P.O. Box 5257
New York, NY 10150-5257

In re Application of	:	
LILIE et al.	:	
Application No.: 10/474,272	:	DECISION ON PETITION
PCT No.: PCT/BR02/00047	:	
Int. Filing Date: 03 April 2002	:	
Priority Date: 04 April 2001	:	
Attorney Docket No.: 04306/0200068-USO	:	

For: LINEAR ELECTRIC MOTOR

This is a decision on applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" which is being treated as a petition under 37 CFR 1.181(a). No petition fee is required.

BACKGROUND

On 03 April 2002, applicants filed international application PCT/BR02/00047 which claimed a priority date of 04 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 October 2002. A Demand was filed for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 04 October 2003.

On 02 October 2003, 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 a preliminary amendment.

On 04 March 2004, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 11 March 2004, applicants filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) filed 24 October 2003; post card receipt dated 24 October 2003; and a copy of a check in the amount of $170.

DISCUSSION

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 24 October 2003. A review of the present application reveals that the declaration and power of attorney filed 24 October 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and attorney docket number. The receipt itemizes declarations executed by the joint-inventors. The receipt is stamped "Rec'd. PCT/PTO 24 OCT 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 24 October 2003.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 03 April 2002 and a date of **24 October 2003** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

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H3

TOWNSEND, TOWNSEND & CREW LLP
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San Francisco, CA 94111

In re Application of :
FRAENKEL, Miriam *et al* :
Application No.: 10/474,275 :
PCT No.: PCT/US02/17358 :
Int. Filing Date: 29 May 2002 : **COMMUNICATION**
Priority Date: 29 May 2001 :
Attorney Docket No.: 040013-000720US :
For: FLICKER CONTROL FOR A CMOS IMAGER :

This communication is in response to the document filed via facsimile on 04 December 2003 titled "Official Communication For the Personal Attention of Officer Donna Greene."

In the communication, applicants claim that four national stage applications were filed on 08 October 2003 pursuant to 35 U.S.C. 371 all claiming priority to international application PCT/US02/17358. Only one national stage application may be filed in the United States for an international application

Applicants request the application titled CMOS Imager for Cellular Applications and Methods of Using Such, U.S. application 10/474,798 (Docket No. 040013-000710US) be processed pursuant to 35 U.S.C. 371, with the other three applications filed as a Continuation of the U.S. National Phase application based on PCT/US02/17358.

This request will not be granted. The above-captioned application titled has already been processed as the national stage of PCT/US02/17358 to 35 U.S.C. 371.

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

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Townsend and Townsend and Crew LLp
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San Francisco, CA 94111

In re Application of	:	
Miriam FRAENKEL et al	:	DECISION ON
Application No.: 10/474,275	:	
PCT No.: PCT/US02/17358	:	
Int. Filing Date: 29 May 2002	:	PETITION UNDER
Priority Date: 29 May 2001	:	
Attorney Docket No.: 040013-000720US	:	
For: FLICKER CONTROL FOR A CMOS IMAGER	:	37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 CFR 1.181," filed 17 June 2005, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of a copy of the Declaration filed on 11 February 2005. Applicants have submitted, inter alia, a copy of the 11 February 2005 USPTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: Declaration (3 pages).

BACKGROUND

On 29 May 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application. Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 14 October 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 1.47(a) and (b), identifying the application by the International application number and international filing date. The notice also indicated that the items above must be submitted within two (2) months from the date of this notice or by 22 or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 18 November 2004, applicants responded to the "Notification" but it was incomplete since there were 5 inventor signatures missing.

On 17 December 2004, the DO/EO/US mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) which indicated that the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: there are 5 inventor signature missing and not listed in the declaration.

On 17 June 2005, USPTO received this petition stating that applicants submitted a response to the Notification of Defective Response on February 11, 2005 as evidenced by the stamped USPTO stamped postcard.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the USPTO as indicated in the stamped postcard:

(1) Declaration (3 pages)
(2) Petition for extension of time

The postcard lists the above items and bears a USPTO date of stamp as 05 March 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 11 February 2005.

Accordingly, the date of receipt for the Declaration is 11 February 2005.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **11 February 2005**.

Rafael Bacares
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PCT Legal Office
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Facsimile: (571) 273-0459

#7

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20 JUL 2007

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

In re Application of	:	
Meerpoel et al	:	DECISION ON
Application No.: 10/474,281	:	
PCT No.: PCT/EP02/03491	:	
Int. Filing Date: 27 March 2002	:	PETITION UNDER
Priority Date: 06 April 2001	:	
Attorney Docket No.: JAB-1685	:	
For: LIPID LOWERING BIPHENYCARBOXAMIDES	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 37 USC 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE" received re-filed on 25 April 2006, which is being treated as a petition under 37 CFR 1.181, requesting that the executed Declaration was properly filed in the international stage for the above application.

BACKGROUND

On 02 October 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not appear to satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 26 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 1.47(a) and (b), identifying the application by the International application number and international filing date." The notice also indicated that the items above must be submitted within two (2) months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 26 November 2003, on 26 January 2004, applicants filed a copy of the Request filed on 27 March 2002 that contained an executed declaration that was filed under Rule 4.17.

On 22 October 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDOMENT" (FORM PCT/DO/EO/905) stating that applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 11/26/2003 within the time period set therein.

On 25 April 2006, applicants filed the instant petition stating the declaration was timely submitted in the PCT Request and that a copy of the PCT request is enclosed.

DISCUSSION

In general, the requirement for an oath or declaration in compliance with 37 CFR **1.497**(a)-(b) will have been previously satisfied if a declaration in compliance with PCT Rule **4.17** (iv) and executed by all the inventors was submitted within the time limits provided in PCT Rule **26ter.1** in the international phase.

A review of the file reveals that the USPTO had received the executed Declaration on 02 October 2003 submitted under PCT Rule 4.17.

Accordingly, the "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 26 November 2003 and the "NOTIFICATION OF ABANDONMENT" mailed 22 October 2004 were in error.

DECISION

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

The "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 26 November 2003 and the "NOTIFICATION OF ABANDONMENT" mailed 22 October 2004, are **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 **02 October 2003.**

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Ron M. Aird	: DECISION ON REQUEST FOR
Patent Number	: 7582323	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/474,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1317** 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.

25 MAR 2005

#10

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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard
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Los Angeles CA 90025-1026

In re Application of	:	DECISION
POMPON et al.	:	
Application No.: 10/474,299	:	
PCT No.: PCT/FR02/01150	:	
Int. Filing Date: 03 April 2002	:	
Priority Date: 04 April 2001	:	
Attorney Docket No.: 15675P486	:	
For: SUPPORTED DOUBLE LAYER STRUCTURE FOR DISPLAYING A NUCLEIC ACID ASSOCIATED WITH A PROTEIN	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 14 February 2005.

BACKGROUND

On 03 April 2002, applicants filed international application PCT/FR02/01150, which designated the U.S. and claimed a priority date of 04 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 17 October 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 October 2003 (04 October 2003 being a Saturday).

On 02 October 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a paper copy of the Sequence Listing.

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 applicant must provide an initial computer readable form (CRF) of the "Sequence Listing" . The NOTIFICATION set a two-month extendable period for reply.

On 22 April 2004, applicants submitted a "RESPONSE TO NOTICE OF MISSING REQUIREMENTS" including, *inter alia*, a copy of the Sequence Listing in Computer Readable Form.

On 25 June 2004, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the Computer Readable Form of the Sequence Listing submitted 22 April 2004 was found to contain errors as indicated on an attached "Raw Sequence Listing Error Report". This NOTIFICATION set a one month non-extendable period for response.

On 27 July 2004, applicants submitted a "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" which was accompanied by, *inter alia*, a copy of the Sequence Listing in Computer Readable Form.

On 07 September 2004, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America because an error was found in the Computer Readable Form of the Sequence Listing filed 27 July 2004.

On 14 February 2005, applicants submitted the instant petition under 37 CFR 1.137(b), which was accompanied by, *inter alia*, a copy of the Sequence Listing in Computer Readable Form.

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), the Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) (see "Raw Sequence Listing Error Report" dated 23 March 2005, copy enclosed) detected errors when processing the computer readable form submitted 14 February 2005. The enclosed Report explains the detected errors.

As to item (2), applicant submitted the petition fee on 14 February 2005.

As to item (3), a grantable petition has not yet been filed.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request

should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". 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.

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

Enc.: "Raw Sequence Listing Error Report" dated 23 March 2005

13 SEP 2005

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In re Application of	:	
Pompon et al..	:	
Serial No.: 10/474,299	:	DECISION ON
PCT No.: PCT/FR02/01150	:	PETITION
Int. Filing Date: 03 April 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 04 April 2001	:	
Attorney's Docket No.: 15675P486	:	
For: SUPPORTED DOUBLE LAYER STRUCTURE FOR DISPLAYING A NUCLEIC ACID ASSOCIATED WITH A PROTEIN	:	

This decision is responsive to the "PETITION TO REVIVE AND RESPONSE TO NOTIFICATION OF ABANDONMENT AND NOTIFICATION OF DEFECTIVE RESPONSE" filed 23 May 2005. The petition fee was paid previously.

BACKGROUND

On 03 April 2002, applicants filed international application PCT/FR02/01150, which claimed priority of an earlier French application filed 04 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 October 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage or for filing a continuation, divisional or continuation-in-part in the United States expired at midnight on 06 October 2003 (04 October 2003 being a Saturday).

On 02 October 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a paper copy of the sequence listing. These papers were assigned Application No. 10/474,299.

On 05 February 2004, the United States Patent and Trademark Office in its capacity as an Elected Office mailed 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 a computer readable copy (CRF) of the sequence listing. The notification set a two-month time period in which to respond.

On 22 April 2004, applicants submitted a "RESPONSE TO NOTICE OF MISSING REQUIREMENTS" including, *inter alia*, a copy of the sequence listing on CRF.

On 25 June 2004, a "NOTIFICATION OF DEFECTIVE RESPONSE" (form PCT/DO/EO/916) was mailed to applicant indicating that the CRF submitted 22 April 2004 was found to contain errors as indicting on the "Raw Sequence Listing Error Report." This notice set a one month non-extendable period for response.

On 27 July 2004, applicants submitted a "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" which was accompanied by a copy of the sequence listing on CRF.

On 07 September 2004, a "NOTIFICATION OF ABANDONMENT" (form PCT/DO/EO/909) was mailed to applicant indicating that the application was abandoned because an error was found in the CRF submitted 27 July 2004.

On 14 February 2005, applicants submitted a "PETITION TO REVIVE AND RESPONSE TO NOTIFICATION OF ABANDONMENT AND NOTIFICATION OF DEFECTIVE RESPONSE" which was accompanied by a sequence listing on CRF.

On 25 March 2005, a decision was mailed to applicant dismissing the petition to revive because the CRF submitted on 14 February 2005 contained an error.

On 23 May 2005, applicant submitted the current petition accompanied by a sequence listing on CRF.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by 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) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants have provided the required statement, a proper reply in that the CRF does not contain errors, and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** for purposes of filing a national stage application in the United States.

This application is being forwarded to the national stage office for preparation 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) showing a 35 U.S.C. 371 date of **22 April 2004**.

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PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
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28 FEB 2005

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In re Application of FISCHER et al :
U.S. Application No.: 10/474,308 :
PCT Application No.: PCT/EP02/03620 :
Int. Filing Date: 02 April 2002 :
Priority Date Claimed: 12 April 2001 : DECISION
Attorney Docket No.: CS7957 / LeA 35,069 :
For: THIAZOLYL-SUBSTITUTED :
CARBOCYCLIC 1,3-DIONES AS :
PESTICIDAL AGENTS :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" filed 27 October 2004.

BACKGROUND

On 02 April 2002, applicant filed international application PCT/EP02/03620, which claimed priority of an earlier Germany application filed 12 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 07 November 2002. The thirty-month period for paying the basic national fee in the United States expired on 12 October 2003.

On 07 October 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 26 November 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 26 October 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 27 October 2004, applicant filed the present petition under 37 CFR 1.137(a) along with a request for status under 37 CFR 1.42.

DISCUSSION

I. Request for Status Under 37 CFR 1.42

The declaration filed 27 October 2004 indicates that joint inventor Christoph Erdelen is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration filed 27 October 2004 is accepted under 37 CFR 1.42.

Applicant is advised that the submission of a declaration executed by the heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

II. Petition under 37 CFR 1.137(a)

Under 37 CFR 1.137(a), a petition requesting that an application be revived on the grounds of unavoidable abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(l), (3) a showing to the satisfaction of the 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 if the application was filed before 08 June 1995.

With regard to item (1) above, applicant has provided the required reply.

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

With regard to item (3) above, applicant has failed to make an adequate showing that abandonment of the present application was unavoidable.

MPEP 711.03(c) III. C. 2. states in relevant part,

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

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

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

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

In the present case, the petition states that the delay was the result of a clerical error. However, the petition does not provide any evidence concerning an existing business routine for performing the clerical function or evidence regarding the employee's training and experience.

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

CONCLUSION

For the reasons set forth in §I above, the request for status under 37 CFR 1.42 is GRANTED.

For the reasons set forth in §II above, the petition under 37 CFR 1.137(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 from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

14 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

BAYER CROPSCIENCE LP
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205-9741

In re Application of FISCHER et al :
U.S. Application No.: 10/474,308 :
PCT Application No.: PCT/EP02/03620 :
Int. Filing Date: 02 April 2002 :
Priority Date Claimed: 12 April 2001 : DECISION
Attorney Docket No.: CS7957 / LeA 35,069 :
For: THIAZOLYL-SUBSTITUTED :
CARBOCYCLIC 1,3-DIONES AS :
PESTICIDAL AGENTS :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 07 March 2005.

BACKGROUND

On 02 April 2002, applicant filed international application PCT/EP02/03620, which claimed priority of an earlier Germany application filed 12 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 07 November 2002. The thirty-month period for paying the basic national fee in the United States expired on 12 October 2003.

On 07 October 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 26 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 27 October 2004, applicant filed an executed declaration.

On 26 October 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 07 March 2005, 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 basic national fee under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 02 April 2002, and a date under 35 U.S.C. 371(c) of 27 October 2004.

The application is being forwarded to the 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

24 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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#3

Millen, White, Zelano & Branigan, P.C.
2200 Clarendon Blvd.
Suite 1400
Arlington, VA 22201

In re Application of :
JACOB et al. :
Application No.: 10/474,312 : DECISION ON PETITION
PCT No.: PCT/EP02/02756 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 13 March 2002 :
Priority Date: 05 April 2001 :
Attorney Docket No.: MERCK-2750 :
For: KAPPA-OPIATE AGONISTS FOR THE TREATMENT OF BLADDER DISEASES

The petition to revive under 37 CFR 1.137(b) filed 07 October 2003 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 $920 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
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BARNES & THORNBURG LLP
750-17TH STREET NW
SUITE 900
WASHINGTON DC 20006-4675

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FEB 22 2007

OFFICE OF PETITIONS

In re Application of :
Harald Janssen et al :
Application No. 10/474,314 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. 963/40775 :

This is a decision on the petition, filed February 22, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1732 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
3000 K STREET NW SUITE 500
WASHINGTON, DC 20007

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of :
CHU, et al. :
Application No. 10/474,331 : DECISION GRANTING PETITION
Filed: July 1, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **07212-0353** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. Joseph P. Meara 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. Meara 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

Cc: JOSEPH P. MEARA
FOLEY & LARDNER, LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53703-1497

---

[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

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

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JUL 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,456,183 : DECISION ON
Chu et al. : APPLICATION FOR PATENT
Application No. 10/474331 : TERM ADJUSTMENT and
Issue Date: November 25, 2008 : NOTICE OF INTENT TO ISSUE
Filed: July 1, 2004 : CERTIFICATE OF CORRECTION
Attorney Docket No. 07121-0353 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed January 23, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred forty-two (342) days to six hundred forty (640) days. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

On November 25, 2008, the above-identified application matured into US Patent No. 7,456,183 with a patent term adjustment of 342 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 376 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 298 days do not overlap as these periods do not occur on the same day.

Patentees' contend that the 376-day period is calculated based on the application having a filing date of July 1, 2004 and a request for continued examination (RCE) having been filed in this application on July 11, 2008, three years and 376 days later. Patentees assert that in addition to this 376-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) totalling 298 days.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay and the period of Examination Delay to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 674 days, which is the sum of the period of Three Year Delay (376 days) and the period of Examination Delay (298 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 640 days (376 days + 298 days reduced by 0 overlap – 34 days of applicant delay).

Patentees do not contest the reductions totalling 34 days. The patent is actually subject to a total reduction of 60 days. A review of the record reveals that the Office neglected to assess a further reduction of 26 days in accordance with 37 CFR 1.704(b) in connection with the reply filed July 1, 2004 in response to the Notification of Missing Requirements Under 35 US.C. 371 in the United States Designated/Elected Office (DO/EO/US) ("Notification"), mailed March 5, 2004. The reduction commenced June 6, 2004, the day after the date that is three months after the date that the Notification was mailed, and ended July 1, 2004, the date that the response to the Notification was filed.

Regarding Patentees request for recalculation of the patent term adjustment based on the decision in Wyeth, under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the filing of the RCE on July 11, 2008, the application was pending three years and 641 days after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. The commencement date is the date 30 months from the earliest priority date claimed in the international application[1]. In this application, the earliest priority date claimed, as shown on the Notice of Acceptance of Application Under 35 U.S.C. § 371 and 37 CFR 1.495, mailed July 15, 2004, is April 9, 2001. Accordingly, the period of adjustment of 641 days pursuant to 37 CFR 1.703(b) commenced October 10, 2006, the day after the date that the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, and ended July 11, 2008, the date that the RCE was filed.

[1] The commencement date may be earlier than 30 months where (1) an applicant expressly requested early commencement, and completed all requirements under 35 U.S.C. 371(c), or (2) Demand was timely filed requesting a change in commencement from 20 to 30 months. Neither is applicable here.

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 298 days is correct. At issue is whether patentees should accrue 641 days of patent term adjustment due to the Three Year Delay by the Office, as well as 298 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 298 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

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

---

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 9, 2003, as terminated by the filing of the RCE on July 11, 2008, or 641 days. Prior to the issuance of the patent, 298 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 298 days of Office delay overlap with the 641 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 641 days, not 641 days + 298 days. The Office took 14 months and 298 days (measured from the Date of Completion of All 35 U.S.C. § 371 Requirements, or the fulfillment date, pursuant to 35 U.S.C. 154(b)(1)(A)(i)(II) and 37 CFR 1.702(a)(1)), to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 298 days of Office delay and the 60 days of applicant delay and the time allowed within the time frames for processing and examination, the application issued three years and 641 days after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. The Office did not delay 641 days and then delay an additional 298 days. Accordingly, 641 days of patent term adjustment (not 641 days and 298 days) should properly be entered because the period of delay of 298 days attributable to grounds specified in § 1.702(a)(1) overlaps with the 641 days attributable to the delay in the issuance of the patent. Entry of both periods is not warranted.

The PTA of 641 days (298 days pursuant to 37 CFR 1.702(a)(1) and 343 days pursuant to 37 CFR 1.702(b) is reduced 60 days due to applicant delays under 37 CFR 1.704, resulting in an overall adjustment of 581 days.

Applicant's deposit account has been charged the petition fee of $200.00 as authorized in the instant petition.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **FIVE HUNDRED EIGHTY-ONE (581) DAYS**.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,456,183 B2

DATED : November 25, 2008

INVENTOR(S) : Chu et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (342) days.

Delete the phrase "by 342 days" and insert – by 581 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Patent No. 7,456,183	: DECISION ON RENEWED
Chu et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/474331	: of PATENT TERM ADJUSTMENT
Issue Date: November 25, 2008	: and
Filed: July 1, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 07121-0353	: CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on August 17, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 10, 2006 and ends on July 10, 2008, the day before the RCE was filed, and is 640 (not 641) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 878, not 879 days.

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

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seventy-eight (878)** days.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,456,183 B2

DATED : **November 25, 2008**

INVENTOR(S) : Chu et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 342 days.

Delete the phrase "by 342 days" and insert – by 878 days--

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OFFICE OF PETITIONS

FISHER, CHRISTEN & SABOL
1120 20TH STREET, NW
SOUTH TOWER, SUITE 750
WASHINGTON, DC 20036

In re Application of	:	
Robert G. TEETER, et al	:	
Application No. 10/474,335	:	DECISION ON PETITION
Filed: May 17, 2004	:	
Attorney Docket No. LP-1914	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 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 Restriction Requirement, mailed December 13, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 1615 for appropriate action by the Examiner in the normal course of business on the reply received August 14, 2009.

/Diane C. Goodwyn/
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

SEP 21 2004

In re Application of	:	
Akio Misaka	:	
Serial Number: 10/474,336	:	PETITION UNDER
Filed: October 8, 2003	:	MPEP 708.02 VIII
For: PHOTOMASK, METHOD FOR PRODUCING THE SAME, AND METHOD FOR FORMING PATTERN USING THE PHOTOMASK	:	

This is in response to the petition filed July 2, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

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

McDermott Will & Emery
600 13th Street NW
Washington DC 20005-3096

28 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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#6

John C. Holman
400 Seventh Street, N.W.
Washington DC 20004-2201

In re Application of: GARAVANO, Gallo	:	
Application No.: 10/474,366	:	DECISION
PCT Application No.: PCT/ES02/00171	:	
Int. Filing Date: 08 April 2002	:	UNDER
Priority Date: 09 April 2001	:	
Atty Docket No.: P71559US0	:	37 CFR 1.137(b)
For: SYSTEM FOR FINDING VEHICLES PARKED INSIDE BUILDINGS AND ROOFED SURFACES	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION" filed 21 February 2007, which has been treated as a petition under 37 C.F.R. 1.137(b).

BACKGROUND

On 08 April 2002, applicant filed international application PCT/ES2002/000171, which designated the U.S. and claimed priority date of 09 April 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 October 2003. Accordingly, PCT/ES2002/000171 became abandoned as to the United States of America at midnight of 09 October 2003 for failure to timely pay the Basic National Fee.

On 09 October 2003, the applicant submitted credit card information to RO/US for fee payment; however, on 04 November 2003, the credit card information provided by the applicant was declined.

On 10 March 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to the applicant. The Notification stated that the applicant has failed to provide the full U.S. Basic National Fee by 30 months.

On 09 June 2005, the applicant submitted a letter requesting information on the Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) (Form PTO-1390) filed 09 October 2003.

On 28 July 2005, an email was sent by the RO/US requesting a current mailing address to respond to the status inquiry of PCT/ES2002/000171. The applicant responded by providing a mailing address.

On 29 July 2005, a letter was mailed to the applicant by the RO/US informing the applicant that the International Application was abandoned for failure to pay the Basic National Fee and a copy of the Notification of Abandonment was accompanied with the letter.

On 21 February 2007, applicant filed a submission for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation and a petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has provided the required reply.

Regarding item (2), applicant has provided the required petition fee.

Regarding item (3), applicant has provided the required statement. It should be noted that the above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. At 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

CONCLUSION

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of 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 mailing of a Notification of Missing Requirements, requiring a proper translation.

Bena Miller
PCT Legal Examiner Detailee
Office of PCT Legal Administration

Leonard Smith
PCT Special Programs Examiner
Office of PCT Legal Administration

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22429
LOWE HAUPTMAN GILMAN AND BERNER LLP
1700 Diagonal Road
Suite 300/310
Alexandria, VA 22314

In re Application of :
KAZAMA, Satoshi :
U.S. Application No.: 10/474,375 :
PCT No.: PCT/JP02/03535 :
Int. Filing Date: 09 April 2002 :
Priority Date: 09 April 2001 :
Attorney Docket No.: 2695-078 :
For: MEASURING METHOD FOR ELECTROMAGNETIC FIELD INTENSITY DISTRIBUTION . . . :

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This decision is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" filed 17 October 2005 and again on 14 February 2006. This is treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 13 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 an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. A two-month time limit in which to respond was set with extensions of time available.

On 11 March 2005, a "Filing Receipt Status Inquiry" was filed.

On 02 August 2005, a "Status Inquiry" was submitted.

On 17 October 2005, applicant filed a response to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration, a surcharge fee, a petition under 37 CFR 1.137(a), a "Statement Establishing Unavoidable Delay", a copy of a computer docket record and authorization to charge any additional fees to Deposit Account No. 07-1337.

On 17 November 2005, the DO/EO/US mailed a Notice of Abandonment for failing to reply to the Form PCT/DO/EO/905 mailed 13 February 2004.

On 23 December 2005, applicant purportedly filed via facsimile a "Resubmission of Petition for Revival" along with copies of the petition filed 17 October 2005. These documents are not located in the file.

On 12 January 2006, a duplicate Notice of Abandonment was mailed.

On 14 February 2006, applicant filed a "Resubmission of Petition for Revival" along with copies of the petition filed 17 October 2005.

DISCUSSION

Applicant filed a petition to revive under 37 CFR 1.137(a) claiming in the "Statement Establishing Unavoidable Delay" that the Form PCT/DO/EO/905 mailed 13 February 2004 was never received. As such, this petition is being treated as a petition to withdraw the holding of abandonment based on nonreceipt of an Office action. *See* § 711.03(c) MPEP. No fee is required.

Petition to Withdraw Holding of Abandonment

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring 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 nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the petition, counsel states that "Attorney for applicant never received the Notice to File Missing Parts." This statement satisfies item (1). However, applicant must also provide a statement to satisfy item (2).

In addition, petitioner submitted a copy of a computer docket sheet containing information on Docket Number 2695-078 only. This docket record indicates that the Form PCT/DO/EO/905 mailed 13 February 2004 was not received and processed. But this evidence is not sufficient to meet item (3). Section 711.03(c) of the MPEP discusses the docket record requirement and states, in part:

> A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. **For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a**

date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. (Emphasis added).

A single document containing only docket information on the U.S. application in question shows no other corroborating information to add weight and credibility to the information contained therein and can be too easily manipulated. In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, applicant must provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 13 April 2004). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. The docket report showing only the subject application does not satisfy this requirement.

Therefore, applicant has not met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The subject application remains **ABANDONED**.

The only fee required is a $130.00 surcharge fee. All additional fees previously paid have been refunded.

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. Applicant may also submit a petition under 37 CFR 1.137(a) or (b).

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.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

25 JUL 2006

#9

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22429
LOWE HAUPTMAN GILMAN AND BERNER LLP
1700 Diagonal Road
Suite 300/310
Alexandria, VA 22314

In re Application of :
KAZAMA, Satoshi :
U.S. Application No.: 10/474,375 :
PCT No.: PCT/JP02/03535 :
Int. Filing Date: 09 April 2002 :
Priority Date: 09 April 2001 : **DECISION**
Attorney Docket No.: 2695-078 :
For: MEASURING METHOD FOR :
ELECTROMAGNETIC FIELD :
INTENSITY DISTRIBUTION . . . :

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181." No fee is required.

BACKGROUND

On 16 March 2006, a decision dismissing applicant's petition to withdraw the holding of abandonment was mailed due to the failure to provide a copy of the global docket record for the time period where a response was required.

On 16 May 2006, applicant filed this renewed petition which was accompanied by, *inter alia*, a "Statement of Tracy A. Luke" and a copy of a computer docket record for the period from 6 April 2004 to 20 April 2004.

DISCUSSION

The subject application was abandoned for failure to respond to 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 13 February 2004.

Applicant claims that the Form PCT/DO/EO/905 was never received. However, a decision dismissing applicant's petition was mailed 16 March 2006 because applicant failed to provide a copy of the global docket record showing all applications for which a response was due on 13 April 2004 in the initial petition. A statement that a search of the file jacket and docket record indicates that the Office communication was not received was also required.

In this renewed petition, applicant provided the required statement by counsel's assistant Tracy Luke. Applicant also provided a copy of the law firms computer log showing due dates for all USPTO actions docketed from 06 April 2004 to 20 April 2004.

A review of the computer log verifies that the Form PCT/DO/EO/905 mailed in the above-captioned application was not received. The docket number 2695-078 of the above-captioned application was not listed in the log.

CONCLUSION

In view of the above, the renewed petition to withdraw the holding of abandonment is **GRANTED**.

The Notice of Abandonment mailed in the subject application is **VACATED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 09 April 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 October 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

16 JUL 2008

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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

In re Application of	:	
KEIDAR, Oren, et al.	:	
Application No.: 10/474,380	:	
PCT No.: PCT/IL02/00291	:	
Int. Filing Date: 11 April 2002	:	DECISION
Priority Date: 11 April 2001	:	
Attorney's Docket No.: 1385/18	:	
For: DIGITAL VIDEO PROTECTION FOR AUTHENTICITY VERIFICATION	:	

This is a decision on applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on 15 November 2005.

BACKGROUND

On 26 February 2004, the Office mailed a Notification indicating that the declaration of the inventors was not in compliance with 37 CFR 1.497(a)-(b) and that a new oath or declaration of the inventors was required.

On 27 October 2005, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that a new oath or declaration of the inventors had not been received that the application was abandoned.

On 15 November 2005, applicants filed this petition to withdraw the holding of abandonment.

DISCUSSION

To withdraw the holding of abandonment, applicants must provide sufficient evidence of an earlier, timely filing with the Office and a copy of the earlier submission.

Applicants have provided a date-stamped receipt identifying the above captioned application and listing a declaration. Applicants have provided a copy of the declaration they claim to have earlier submitted. The copy of the declaration is accepted as having a receipt date of 23 April 2004.

CONCLUSION

For the above reason, applicants' request to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 October 2005 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of **23 April 2004**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Phone: (571) 272-3292
Fax: (571) 273-0459

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GARDNER GROFF GREENWALD & VILLANUEVA, PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

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MAY 0 1 2008

In re Application of	:	
Ford Silvers et al	:	
Application No. 10/474,384	:	DECISION GRANTING PETITION
Filed: October 9, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 24101.1-011	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1796 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.*

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500 W. MADISON STREET, SUITE 3800
CHICAGO, IL 60661

COPY MAILED

APR 19 2005

OFFICE OF PETITIONS

In re Application of :
Jan Jaap Nietfeld :
Application No. 10/474,385 : DECISION ON PETITION
Filed: May 13, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. NIE6255P0010US :

This is a decision on the petition, filed January 26, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified 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 sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements

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

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

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

The application is being forwarded to Technology Center AU 1631 for appropriate action on the amendment submitted January 26, 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. 60/282,742.

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

ATTACHMENT: Corrected Filing Receipt

04 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Thomas A. Gallagher
Gallagher & Lathrop
601 California Street, Suite 1111
San Francisco, CA 94108-2805

In re Application of	:	
CROCKETT	:	
PCT No.: PCT/US02/04317	:	DECISION ON PETITION
Application No.: 10/474,387	:	
Int. Filing Date: 12 February 2002	:	UNDER 37 CFR 1.10
Priority Date: 13 April 2001	:	
Atty. Docket No.: DOLO7503 US	:	
For: HIGH QUALITY TIME-SCALING AND PITCH-SCALING OF AUDIO SIGNALS	:	

This is a decision on applicant's "Petition to Correct Filing Date Under 37 CFR § 1.10" filed on 23 December 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 February 2002, applicant filed international application PCT/US02/04317 which claimed priority to an earlier application filed 13 April 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 October 2003.

On 03 March 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 08 October 2003.

On 23 December 2004, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 07 October 2003.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has

accorded, or will accord, a filing date other than the USPS deposit date;

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

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of 07 October 2003. Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 12 February 2002 under 35 U.S.C. 363 and a date of **07 October 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 03 March 2003 indicating a date of 08 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Dolby Laboratories Inc.
999 Brannan Street
San Francisco, CA 94103

Mail Date: 04/20/2010

Applicant	: Brett Graham Crockett	: DECISION ON REQUEST FOR
Patent Number	: 7610205	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/474,387	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1604** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Dolby Laboratories Inc.
999 Brannan Street
San Francisco, CA 94103

Mail Date: 05/17/2010

Applicant : Brett Graham Crockett
Patent Number : 7610205
Issue Date : 10/27/2009
Application No: 10/474,387
Filed : 10/07/2003

: 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 **1731** 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/06

TO SPE OF : ART UNIT 3681

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/474394 Patent No.: 6962097

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**.

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: AS SET FORTH IN THE 3/16/06 OFFICE COMMUNICATION, THE CERTIFICATE OF CORRECTION FORM PTO 1050 DOES NOT SET FORTH COLUMN AND LINE NUMBERS - ALSO THE SECOND PAGE DOES NOT APPEAR TO BE ON A FORM 1050. THEY WOULD BE APPROVED IF THE ENTIRE CHANGE WAS ON A FORM 1050 AND THE FORM SET FORTH COLUMN 2 BETWEEN LINES 15 AND 16 AND THE LOCATION OF THE INSERTION

C Mann — SPE

3611 — 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

Date : 10/12/07

Patent No. : 7096126 B2
Ser. No. : 10/474,398
Inventor(s) : GEUTEBRüCK, ERNST
Issued : 08/22/06
Title : **METHOD AND DEVICE FOR DETECTING FUNCTIONAL AND METABOLIC DATA OF A LIVING ORGANISM**
Docket No. : F-7969

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:

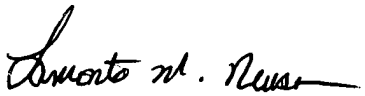
By mail: Mail Stop PETITIONS

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
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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OFFICE OF PETITIONS

In re Patent No. 7,096,126

Issue Date: August 22, 2006

Application No. 10/474,398

Filed: October 9, 2003

Attorney Docket No. F-7969

ON PETITION

This is a decision on the petition filed November 1, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

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.

UNITED STATES 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 APR 2007

Andrew N. Parfomak
Norris, McLaughlin & Marcus, PA
875 Third Avenue, 18th Floor
New York, NY 10022

In re Application of	:	
CHEUNG, et al.	:	
U.S. Application No.: 10/474,411 (10/595,836)	:	DECISION ON PETITION
PCT No.: PCT/GB04/04862	:	
Int. Filing Date: 18 November 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 21 November 2003	:	
Attorney Docket No.: 102792-214 (11363P3 US)	:	
For: CLEANING COMPOSITIONS	:	

This decision is in response to the applicant's petition under 37 CFR 1.47 filed 30 November 2006 in the United States Patent and Trademark Office (UPSTO) in application number 10/474,411 to accept the application without the signature of joint inventor Andrew Courtney.

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

Applicant is advised that application number 10/474,411 is not the application serial number for the U.S. national stage of international application PCT/GB04/04862. The correct serial number is 10/595,836. In addition, a notice of acceptance (Form PCT/DO/EO/903) was mailed in application 10/595,836 on 28 September 2006. The published international application lists Anthony McLellan as the sole inventor for PCT/GB04/04862.

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

15 SEP 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Glenn Law
Foley and Lardner, LLP
Suite 500
3000 K Street, N.W.
Washington, D.C. 20007

In re Application of
VANHUTTE, Guy
Application No.: 10/474,422
PCT No.: PCT/EP02/03712
Int. Filing Date: 28 March 2002
Priority Date: 11 April 2001
Atty. Docket No.: 016782-0293
For: A FILTRATION APPARATUS

DECISION

This decision is in response to applicants' "Request for Corrected Notice of Acceptance of Application" filed on 19 August 2004.

BACKGROUND

On 28 March 2002, applicant filed international application PCT/EP02/03712 which claimed a priority date of 11 April 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 October 2003.

On 09 October 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 were, *among others*, the requisite basic national fee; a copy of the international application; a preliminary amendment; and an executed declaration. Applicant did not mark Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)."

On 08 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 09 October 2003 and a 35 U.S.C. 371 completion date of 11 October 2003.

On 19 August 2004, applicant filed "Request for Corrected Notice of Acceptance of Application."

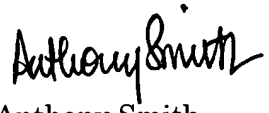
DISCUSSION

Applicants request that the date of completion of requirements on the Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495 should be corrected to 09 October 2003. The Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) indicates the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements and it also indicates the date of completion of all 35 U.S.C. 371 requirements. MPEP §1893.03(b) states that the date of completion of all 35 U.S.C. 371 requirements will be later than the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) when a request for early processing has not been requested prior to 30 months from the priority date. Here, applicants submitted the basic national fee; a copy of the international application; and an executed declaration on 09 October 2003 which are the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). However, applicant did not check Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)" and therefore, national stage processing or the date of completion of all 35 U.S.C. 371 requirements could not begin prior to 30 months from the priority date, 11 October 2003. Therefore, the correction of the Notification of Acceptance to indicate a date of 09 October 2003 is not proper since the requirements set forth in 35 U.S.C. 371 were completed on 11 October 2003.

CONCLUSION

Applicants' request for the issuance of a corrected Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 is **REFUSED**.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/01/06

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/474445** Patent No.: **6963241**

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**.

Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Rexford Barnie — SPE

2819 — Art Unit

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JUL 31 2006
OFFICE OF PETITIONS

In re Application of :
Laurent Mace et al :
Application No. 10/474,457 : DECISION ON PETITION
Filed: December 12, 2003 :
Attorney Docket No. Q77565 :

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

The petition is **GRANTED.**

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 20, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2)(b). A three-month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1734 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Law Offices of Karl Hormann
P.O. Box 381516
Cambridge, MA 02238-1516

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Roland Scheer, et. al. :
Application No. 10/474,472 : DECISION ON PETITION
Filed: October 8, 2003 :
Attorney Docket No. 030602-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed July 27, 2004. A Notice of Abandonment was mailed on December 2, 2004.

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

information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the

burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 28, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Karl Hormann was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts he made to reply and with whom this matter was discussed outside of his Office. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the responsible person and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons at the Law Offices of Karl Hormann, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the Law Offices of Karl Hormann and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of :
Roland Scheer, et. al. :
Application No. 10/474,472 : DECISION ON PETITION
Filed: October 8, 2003 :
Attorney Docket No. 030602-US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 30, 2008, to revive the above-identified application.

In response to the decision mailed September 30, 2008, petitioner submits the present petition along with $130 for a one month extension of time filed on December 30, 2008.

The petition is **DISMISSED**.

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

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

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

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

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

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

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

Petitioner states that "beginning on approximately May 29, 2004 Applicants stopped receiving communications regarding the application from attorney Hormann. From May 29, 2004 through at least May 21, 2007 no information was forwarded to Applicants regarding the status of the application".

The Office would like to know why applicants waited almost three years, from May 29, 2004 to February 12, 2007 (date applicants became aware of abandonment) to receive any communication regarding the status of the above application from Attorney Hormann. Applicants must explain what communication, if any, took place between Attorney Hormann and the applicants during the period of May 29, 2004 through February 12, 2007.

Additionally, the statement from Margit Rudolph discusses e-mail communication beginning on February 12, 2007 through January 24, 2008 to Mr. Hormann, in which Mr. Hormann from time to time would respond. Petitioner should submit copies of e-mails and any other communication to and from Mr. Hormann.

Further, it is noted that Margit Rudolph indicates that she sent communication to Mr. Hormann on January 24, 2008. With the lack of communication between applicants and Mr. Hormann in the past, the Office would like to know why it took several months to contact/obtain new representation to file the initial petition.

Since the Office is trying to ascertain whether the entire delay in abandonment and the filing of the initial petition was unintentional, any and all correspondence relating to the above noted periods should be submitted with any renewed petition.

Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are

permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO. To expedite consideration, petitioner may wish to contact the undersigned.

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

Andrea Smith
Petitions Examiner
Office of Petitions

26 FEB 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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www.uspto.gov

#3

WESTERMAN, HATTORI, DANIELS, & ADRIAN
Suite 700, 1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

In re Application of:	:	
RIAT, Jean-Christophe	:	DECISION ON PETITION TO
U.S. Application No.: 10/474,484	:	REVIVE ABANDONED
PCT No.: PCT/FR02/00829	:	APPLICATION UNDER 37
International Filing Date: 07 March 2002	:	CFR 1.137(b)
Priority Date: 08 March 2001	:	
Attorney's Docket No.: 31187	:	
For: DEVICE FOR DETECTING A RUNNING SURFACE FOR VEHICLE AND VEHICLE USING SAME	:	

The petition to revive under 37 CFR 1.137(b) filed 09 October 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay from the deadline for entry into the U.S. national stage to the date of the present petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

Applicant's 09 October 2003 submission included a translation of the international application into English. Deposit Account No. 50-2866 will be charged the $130 processing fee for submitting the translation later than thirty months after the priority date.

The 09 October 2003 submission also included a declaration executed by the applicant/inventor. However, this declaration cannot be accepted under 37 CFR 1.497 because it does not set forth the citizenship of the inventor.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of a revised oath or declaration

in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 05/21/2010

Applicant	: Dominique Louis Surleraux	: DECISION ON REQUEST FOR
Patent Number	: 7622490	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/474,485	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **326** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

MAILED

MAR 11 2009

OFFICE OF PETITIONS

In re Patent No. 7,214,209 :
MAZZONI, PAOLO : DECISION ON REQUEST
Issue Date: May 8, 2007 : FOR RECONSIDERATION OF
Application No. 10/474,489 : PATENT TERM ADJUSTMENT
Filed: October 8, 2003 :
Attorney Docket No. P14440USw :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER § 1.705(d)" filed July 5, 2007. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 971 days.

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

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

On May 8, 2007, the above-identified application matured into U.S. Patent No. 7,214,209. The instant request for reconsideration was timely filed on July 5, 2007. The patent issued with a revised Patent Term Adjustment of 759 days.

Patentee requests that the Office delay should be increased from 763 days to 975 days. Patentee further requests that the revised Patent Term Adjustment be corrected from 759 days to 971 days. Specifically, patentee asserts that a period of

adjustment of 212 days should be entered for the Office taking in excess of three (3) years to issue the patent. Patentee does not dispute the number of days of patent term reduction under 37 CFR 1.704(c)(10) or adjustment under to 37 CFR 1.702(a)(1).

The instant patent issued 3 years and 212 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the date on which the national stage commenced under 35 U.S.C. 371 that 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).

In this instance, the period of delay of 212 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 763 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment beyond 763 days was entered. Accordingly, the period of 763 days for Office delay is correct.

In view thereof, the patent term adjustment of **759 days** (763 days of Office delay - 4 days of applicant delay) indicated in the patent is correct.

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e) as authorized.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

PI4440USw

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Paolo MAZZONI		
U.S. Patent No.:	**7,214,209**	Serial No.:	10/474,489
Issued:	May 8, 2007	Filed:	8 October 2003
Examiner:	Matthew F. Desanto		
For:	DISPENSER		

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER § 1.705(d)

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

Sir:

Applicants respectfully submit that this Request for Reconsideration of Patent Term Adjustment under § 1.705(d) is timely filed, within two months of the date the patent issued.

Applicants respectfully submit that the 759 days of Patent Term Adjustment (PTA) as indicated on the Issue Notification mailed on March 7, 2007 for the above-captioned patent is incorrect and that USPN 7,214,209 should receive 971 days of PTA.

Applicants respectfully traverse the calculation of PTA for the period beginning the day after 3 years of the 35 U.S.C. § 371 date and ending on 8 May 2007. The U.S. Patent Office's Patent Term Adjustment History as indicated in the Patent Application Information Retrieval (PAIR) system (copy attached) shows 0 days credit in Patent Term Adjustment due to the failure to issue a patent within three years of its filing. Furthermore, it has incorrectly indicated that the 36 month date is April 18, 2007 while correctly indicating that the § 371(c) date is October 8, 2003.

In accordance with § 1.703(b), the period of adjustment is the number of days beginning on the day after the date that is three years after the date on which the application was filed under the national stage commenced under 35 USC 371(b) or (f) in an international application and

03/11/2009 CKHLOK 00000008 071392 10474489
Sale Ref: 00000009 DA#: 071392 10474489
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OCT 12 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Banner & Witcoff, Ltd.
Ten South Wacker Drive
Suite 3000
Chicago, IL. 60606

In re application of
Stephen N. Hardy
Application No. 10/474,490
Filed: October 08, 2003
For: PRODUCT MANAGEMENT DISPLAY SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 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 October 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 October 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/rwg: 10/07/04

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ALAN S. HODES MORRISON &FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

MAILED

JUL 19 2006

Technology Center 2100

In re Application of: Kianoosh, Naghshineh
Application No. 10/474,500
Filed: October 10, 2003
For: MULTI-PURPOSE SWITCHING NETWORK INTERFACE CONTROLLER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 13, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the U.S. Patent and Trademark Office (Office) will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:	
Lars Orning	:	DECISION ON
Application No. 10/474,506	:	APPLICATION FOR
Filed: 03/04/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
ORNI3001/REF	:	

This is a decision on the "REQUEST FOR REVIEW OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed on October 10, 2008. Applicant requests that the Patent Term Adjustment for the above-identified patent be increased by 49 days from 419 days to 468 days.

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

The Office has updated the PALM 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 sixty-eight **(468)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 10, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is four hundred nineteen (419) days.

The subject application for patent term adjustment was timely filed on October 10, 2008, concurrently with the issue fee payment.

Applicant asserts the patent issuing from this application is not subject to a terminal disclaimer.
The Office determined a patent term adjustment of 419 days based on an adjustment for PTO delay of 622 days under 35 USC

154(b)(1)(A)(i) and 37 CFR 1.702(a)(1) for mailing a first non-final Office action fourteen (14) months and 622 days after the date the application fulfilled the requirements of 35 U.S.C. 371. The patent term adjustment was reduced by 203 (63+91+49) days of applicant delay pursuant to 37 C.F.R. §§ 1.704(b) and (c)(8).

Applicant disputes the reduction of 49 days. Specifically, applicant asserts that a notice was mailed on June 11, 2008, stating that a reply filed on May 29, 2008, was not fully compliant, but that on July 10, 2008, an interview summary was mailed, along with the notice of allowance, stating that the notice mailed on June 11, 2008 was mailed in error and is hereby withdrawn.

Applicant's argument is not entirely persuasive. The reduction of 49 days of patent term adjustment was unrelated to the filing of the sequence listing on May 29, 2008 to which the notice mailed on June 11, 2008 was directed. Moreover, the reduction of 49 days was assessed under 37 CFR 1.704(c)(8) for the filing of a supplemental reply on April 30, 2008, filed after the filing of a reply on March 12, 2008. It is important to note that the reduction of 49 days was not assessed under 37 CFR 1.704(c)(7) as no notice of non-compliant amendment (or other assertion of an omission) with respect to the reply filed March 12, 2008 was ever issued in this application.

Nonetheless, a review of the record reveals that the reduction of 49 days is not warranted. 37 CFR 1.704(c)(8) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

A reply was filed on March 12, 2008, in response to the non-final Office action mailed on September 12, 2007, and a supplemental reply was filed on April 30, 2008, 49 days after the filing of the initial reply. However, the record, particularly the examiner's interview summary mailed May 2, 2008, supports a conclusion that the supplemental reply was expressly requested by the examiner in the interview of April 25, 2008. A supplemental reply expressly requested by the examiner is not a basis for reduction pursuant to 37 CFR 1.704(c)(8). Accordingly, the period of reduction of 49 days pursuant to 37 CFR 1.704(c)(8) is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is four hundred sixty-eight (468) days.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED Palm Screen

PTA Calculations for Application: 10/474506			
Application Filing Date:	03/04/2004	PTO Delay (PTO):	622
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	203
Post-Issue Petitions:	0	Total PTA (days):	468
PTO Delay Adjustment:	49		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	02/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	49		
45	07/10/2008	MAIL NOTICE OF ALLOWANCE			
44	07/09/2008	ISSUE REVISION COMPLETED			
43	06/26/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
42	06/26/2008	DOCUMENT VERIFICATION			
41	06/26/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	06/26/2008	CASE DOCKETED TO EXAMINER IN GAU			
39	06/26/2008	EXAMINER'S AMENDMENT COMMUNICATION			
38	06/18/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	06/23/2008	NOTICE OF ALLOWABILITY			
36	06/18/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	06/18/2008	DATE FORWARDED TO EXAMINER			
34	04/30/2008	RESPONSE AFTER NON-FINAL ACTION		49	29
33	06/11/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
32	06/05/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
31	05/27/2008	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
30	05/05/2008	DATE FORWARDED TO EXAMINER			
29.1	03/12/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
29	03/12/2008	RESPONSE AFTER NON-FINAL ACTION		91	25
28	03/12/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

27	05/02/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
26	04/25/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
25	09/12/2007	MAIL NON-FINAL REJECTION			
24	09/04/2007	NON-FINAL REJECTION			
21	06/27/2007	DATE FORWARDED TO EXAMINER			
20	06/18/2007	RESPONSE TO ELECTION / RESTRICTION FILED		63	16
19	06/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	01/16/2007	MAIL RESTRICTION REQUIREMENT	622		-1
15	01/08/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
14	01/01/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	04/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	04/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	03/04/2004	REFERENCE CAPTURE ON IDS			
8	03/29/2004	CLEARED BY OIPE CSR			
7	03/04/2004	371 COMPLETION DATE			
6	03/19/2004	APPLICATION DISPATCHED FROM OIPE			
5	03/19/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	03/04/2004	ADDITIONAL APPLICATION FILING FEES			
3	03/04/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of :
Higashida et al. :
Application No. 10/474,507 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 031237 :

This is a decision on the petition under 37 CFR 1.182, filed on July 19, 2005, to change the order of inventorship.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Gesshi Higashida
2. Toshiyuki Shimizu
3. Tiejun Miao
4. Wasei Miyazaki
5. Hideyuki Asaoka

This application is being forwarded to the Office of Patent Publication for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

23 MAR 2004

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Christopher J. McDonald
HOFFMAN, WASSON & GITLER, P.C.
2361 Jefferson Davis Highway
Suite 522
Arlington, Virginia 22202

In re Application of	:	
Wayne BARDEN	:	
Application No.: 10/474,509	:	DECISION ON
PCT No.: PCT/AU02/00432	:	PETITION
Int. Filing Date: 04 April 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 05 April 2001	:	
Attorney Docket No.: A-8754	:	
For: INFLATABLE BUOY	:	

The petition to revive under 37 CFR 1.137(b) filed 22 October 2003 in the above-captioned application is hereby **GRANTED** as follows:

On 04 April 2002, applicant filed international application PCT/AU02/00432, which claimed priority of an earlier Australian application filed 05 April 2001. The application became abandoned as to the national stage in the United States because the basic national fee was not paid to the USPTO prior to the 30 months statutory time period, which expired at midnight on Monday 06 October 2003.

On 22 October 2003, applicant filed the present petition, requesting revival of the international application under the provisions of 37 CFR 1.137(b) along with the appropriate petition fee as required by 37 CFR 1.17(m) for a small entity.

A review of the application papers filed 22 October 2003 reveals that all of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "the entire delay between the abandonment of the application and the filing of this Petition was unintentional" has been interpreted as meaning 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) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

A review of the declaration of the inventor filed with the petition reveals that it is in compliance with 37 CFR 1.497.

Applicant's claim for priority is acknowledged. The application has an international filing date of **04 April 2002** under 35 U.S.C. 363 and a date of **22 October 2003** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/RC:hn

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ARLINGTON VA 22202-3843

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of
Bruce Leigh Kiehne :
Application No. 10/474,516 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No: A-8735 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 20, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 21, 2005. The instant petition and this decision on petition precede the mailing of the Notice of Abandonment.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 3763 for appropriate action on the response filed May 27, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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SMITH MOORE LEATHERWOOD LLP
P.O. BOX 21927
GREENSBORO, NC 27420

Mail Date: 04/20/2010

Applicant	: Jochen Houben	: DECISION ON REQUEST FOR
Patent Number	: 7608208	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/474,522	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **651** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HARRINGTON & SMITH, PC
4 RESEARCH DRIVE
SHELTON CT 06484-6212

In re Application of:
Aluffo, Luigi
Serial No.: 10/474,530
Filed: Feb. 18, 2005
Docket: 003D.0017.U1(US)
Title: UNIT FOR JOINING AN ELECTRIC CONNECTOR TO A FLAT ELECTRIC CABLE

DECISION ON PETITION

This is a decision on the petition filed on Sep. 18, 2007 by which petitioner requests reconsideration and withdrawal of the restriction requirements mailed Oct. 5, 2006 and subsequently modified on Jan. 30, 2007, and that non-elected claims 1-7 be rejoined and examined on the merits. Claims 8-16 were elected for prosecution. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **dismissed**.

A review of the record reveals that an office action was mailed Oct. 5, 2006 in which the examiner issued a two-way restriction citing 35 *U.S.C.*121, 371 and PCT Rule 13.1 as basis for the restriction requirement. The two Groups of claims were specified as follows: Group I consists of Claims 1-7 (drawn to a method) and Group II consists of claims 8-16 (drawn to a unit). In a response filed on Nov. 6, 2006 the applicant elected Group II invention (claims 8-16), but with traverse. In an office action mailed Jan. 30, 2007, the examiner issued a second revised restriction. In particular, the examiner stated that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1. In a response filed on Feb. 28, 2007, the applicant elected Group II invention (claims 8-16), but with traverse. In an office action mailed May 16, 2007, the examiner continued his restriction and made the restriction final. On Sep. 18, 2007, the current petition was filed to request the restriction requirement be withdrawn. Petitioner opines that the examiner's restriction requirement is incorrect because there was no lack of unity of invention identified during the international stage of the application in the European Patent Office. This is because there is unity of invention among claims 1-16. This is evident by the absence of a unity of invention invitation during the international stage of the application in the European Patent Office. Petitioner further stated that merely because claims 1-7 are drawn to a method and claims 8-16 are drawn to a unit does not automatically mean there is a lack of unity. Petitioner also argues that the examiner in the international phase examined all of the claims, therefore, there is no undue burden for the U.S. examiner to continue examination of all of the claims of the U.S. application. In addition, the current U.S. examiner has not identified any different classifications for the two groups of claims which would justify restriction. Finally,

petitioner states the two groups of claims still have the same general inventive concept, claims 1 and 8 both relate to a first seat (32) which receives a casing (8) and a second seat (41) which receives a cover (9). The two groups of claims have the same general inventive concept. The restriction requirement for two separate patents does not appear to be appropriate in view of the subject matter of the claims in groups I-II. The claims of Groups I-II (Claims 1-16) all appear to define the same essential features as specified in MPEP §806.03. The examiner has not shown that the provisions of MPEP § 806.05(a)-(i) appear to apply to the claims of Groups I-II. Even if the provisions of MPEP 806.0S(a)-(i) were shown to apply to the claims of Groups I-II, because of MPEP § 806.03 restriction still would not be proper in this case.

The restriction requirement was made under 35 USC 121 and 372 between two disclosed and claimed inventions: I) claims 1-7 drawn to a method and II) claims 8-16 drawn to a unit. This application was filed under 35 USC 371 and therefore the groups of inventions must be shown to be not so linked as to form a single general inventive concept under PCT Rule 13.1.

Petitioner's argument regarding the absence of a unity of invention invitation during the international stage of the application in the European Patent Office is evidence to prove that there was no lack of unity of invention is not persuasive in the current U.S. National stage application. There is no Treaty obligation that a new holding of lack of unity cannot be determined in the National stage. Also, there is no U.S. statute or regulation prohibiting a new holding of lack of unity in the National stage.

Petitioner argues that restriction requirement does not comply with the provisions of MPEP § 806.05(a)-(i). Since this application was filed under 35 USC 371, then, U.S. practice is not permitted with respect to National stage entry applications. The provisions of MPEP § 806.05(a)-(i) do not apply in this National stage U.S. application. Therefore, the question of serious search burden also does not apply.

Now, turning to the question of propriety of the restriction requirement itself, a lack of unity of invention must be either directly evident "*a priori*", that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*", that is, after taking the prior art into consideration in accordance with MPEP §1850[1].

The examiner indicated in the restriction requirement that the inventions listed as Groups I-II did not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule

[1] MPEP §1850 II. DETERMINATION OF "UNITY OF INVENTION" An international application should relate to only one invention or, if there is more than one invention, the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept (PCT Rule 13.1). With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any). Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," should be 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. Lack of unity of invention may be directly evident "a priori," that is, before considering the claims in relation to any prior art, or may only become apparent "a posteriori," that is, after taking the prior art into consideration. For example, independent claims to A + X, A + Y, X + Y can be said to lack unity a priori as there is no subject matter common to all claims. In the case of independent claims to A + X and A + Y, unity of invention is present a priori as A is common to both claims. However, if it can be established that A is known, there is lack of unity a posteriori, since A (be it a single feature or a group of features) is not a technical feature that defines a contribution over the prior art.

13.2, they lack the same or corresponding special technical features in that group I has the technical feature of inserting a casing in a first seat and a cover in a second seat and group II has a different technical feature of a pocket and a head. In the petition, petitioner contends that the two groups of claims have the same general inventive concept. Both claims 1 and 8 both relate to a first seat (32) which receives a casing (8) and a second seat (41) which receives a cover (9).

However, in the non-final Office action of May 16, 2007, the examiner has rejected claims 8-16 under 35 USC 102(b) over the prior art patent to Sitz (U.S. Pat. 3,184,950). The limitation regarding the same general concept of "a first seat (32) which receives a casing (8) and a second seat (41)" has been addressed in the Office action. In the petition, petitioner does not address such feature which is known and shown by the Sitz patent. Therefore, there is lack of unity a posteriori, since the claimed feature of "a first seat (32) which receives a casing (8) and a second seat (41) which receives a cover (9)" is not a technical feature that defines a contribution over the prior art. In accordance with MPEP 1850, it became apparent "*a posteriori*", that is, after taking the prior art into consideration that lack of unity of invention exists. Because all of the features of claim 8 are known and do not avoid the prior art, there is no special technical feature that defines a contribution over the prior art that is common to all of the independent claims. In this situation, clearly there is lack of unity of invention and the examiner may, therefore, require restriction.

Under the circumstances, the examiner's restriction requirement by a showing of lack of unity is considered proper. The request to have the restriction requirement withdrawn will not be granted.

Conclusion

For the reasons outlined above, the restriction requirement is in accordance with proper Office procedure. Accordingly, the restriction requirement stands. Petitioner's request to withdraw the restriction requirement is dismissed.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3726 for further examination and consideration of the latest amendment filed on Sep. 24, 2007. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4530.

The petition is dismissed.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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COLLARD & ROE, P.C.
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ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Klaus Peter Skupin	: DECISION ON REQUEST FOR
Patent Number	: 7658307	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/474,534	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **710** 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

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Chicago, Illinois 60606-1080

In re Application of :
STRUMPH et al. :
U.S. Application No. 10/474,562 : DECISION ON PETITION
PCT No.: PCT/US01/12223 :
Int. Filing Date: 13 April 2001 :
Priority Date: None :
Attorney Docket No.: 09741620-0140 :
For: APPLIANCE HAVING A CLOCK SET TO UNIVERSAL TIME :

This decision is in response to applicants' "Statement of Facts in Support of Filing of Behalf of Nonsigning Inventor" filed 13 September 2004, which is being treated as a Petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Thomas Martin Vaughn. The petition fee has been submitted.

BACKGROUND

On 13 April 2001, applicants filed international application PCT/US01/12223 which claimed no priority date. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 13 October 2003.

On 10 October 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application.

On 08 March 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 13 September 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), (3), and (4) have been satisfied.

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

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

A review of the present petition reveals that petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Thomas Martin Vaughn. Petitioner asserts that Thomas Martin Vaughn cannot be found or reached after diligent effort and has provided a copy of the cover letter addressed to Thomas Martin Vaughn. The envelope was stamped by the United States Postal Service as "Attempted - Not Known." However, the efforts to reach Thomas Martin Vaughn, as set forth in the declaration of Allison P. Schwartz, cannot be considered firsthand knowledge, in that, the majority of the efforts were conducted by Roxanne M. Swartz. Further, the declaration of Allison P. Schwartz states that "on August 26, 2004, Ms. Shari Ross, a legal assistant, confirmed that she had not had been able to contact Thomas Martin Vaughn either, after multiple attempts," however, no documentary evidence to support the "multiple attempts" were provided in the petition, nor has Ms. Ross submitted a declaration attesting to her efforts to locate Thomas Martin Vaughn.

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. The single mailing of the papers to the nonsigning inventor's last known address does not constitute a "diligent effort" to locate the inventor.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Thomas Martin Vaughn 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: (571) 272-3298
Fax: (571) 273-0459

04 JAN 2005

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In re Application of :
STRUMPF et al. :
Application No.: 10/474,562 : DECISION ON PETITION
PCT No.: PCT/US01/12223 : UNDER 37 CFR 1.47(a)
Int. Filing: 13 April 2001 :
Priority Date: 13 April 2000 :
Attorney Docket No.: 09741620-0140 :
For: APPLIANCE HAVING A CLOCK SET TO UNIVERSAL TIME :

This decision is in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 16 December 2004. In a decision dated 28 October 2004, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Thomas Martin Vaughn, was dismissed.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 16 December 2004 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Thomas Martin Vaughn. The declaration filed 16 December 2004 is acceptable under 37 CFR 1.497.

For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT.

The application has an international filing date of 13 April 2001 under 35 U.S.C. 363 and a date of **16 December 2004** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith
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07 JAN 2005

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#8

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Proskauer Rose LLP
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Room 17-25
New York, NY 10036-8299

In re Application of	:	DECISION ON
Steffen NOEHTE et al	:	
Application No.: 10/474,581	:	
International App. No.: PCT/EP02/03497	:	
Int. Filing Date: 28 March 2002	:	
Priority Date: 12 April 2001	:	REQUEST UNDER
Attorney's Docket No.: 20496-405	:	
For: METHOD AND DEVICE FOR PRODUCING	:	
INDIVIDUALIZED HOLOGRAMS	:	37 CFR 1.497(d)

This is a decision on applicants' "REQUEST TO NOTIFICATION OF DEFECTIVE RESPONSE AND AUTHORIZATION FOR PAYMENT OF PROCESSING FEE" filed on 05 October 2004, which is being treated as a request under 37 CFR 1.497(d) naming additional inventors, Matthias Gerspach and Jorn Leiber, and deleting Stefan Borgsmuller, in the executed declaration. The $130.00 processing fee has been charged to Deposit Account No. 16-2500 as indicated in the request.

BACKGROUND

On 28 March 2002, applicants filed international application No. PCT/EP02/03497 designating the United States and claiming a priority date of 12 April 2001.

On 10 October 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration was filed at such time.

On 05 March 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 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two (2) months from date of this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 15 March 2004, applicants filed an executed declaration in response to the "Notification of Missing Requirements" mailed on 05 March 2004.

On 01 April 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating that the oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. Inaddition inventors' Matthias Gerspach & Jorn Leiber are listed on published application and inventor Stefan Borgsmuller is listed on the published application and not in the declaration. The Notification indicated that applicants are required to complete the response within a time limit of One Month from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is later.

On 05 October 2004, applicants filed a "REQUEST TO NOTIFICATION OF DEFECTIVE RESPONSE AND AUTHORIZATION FOR PAYMENT OF PROCESSING FEE," which included, *inter alia*, a statement under 37 CFR1.497(d) adding Matthias Gerspach and Jorn Leiber to the declaration, and deleting Stefan Borgsmuller from the declaration.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

> (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (2) the fee set forth in § 1.17(I); and
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (1) - (2) under 37 CFR 1.497(d) but not requirement (3).

With respect to item (1), the statements submitted on 05 October 2004 by Matthias Gerspach, Jorn Leiber, and Stefan Borgsmuller are sufficient because the statements state that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of $130.00 has been charged to the Deposit Account.

With respect to item (3), the assignee, teas scribos Gmbh, consents to the addition of Matthias Gerspach and Jorn Leiber, and the deletion of Stefan Borgsmuller. However, there is no copy of the executed assignment to the assignee in the file. To establish the right of the Assignee to take action, applicants must submit a copy of the executed assignment or specify the reel and frame number. Note MPEP 324 and 37 CFR 3.73(b).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

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. The proper reply is either a proper request under 37 CFR 1.497(d) overcoming the above stated defects. The failure to provide the proper reply will result in Abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". Extensions of time may be obtained under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Richard Cole
PCT Legal Examiner
PCT Legal Office

18 APR 2005

#10

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ALEXANDRIA, VA 22313-1450
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Proskauer Rose LLP
1585 Broadway
Room 17-25
New York, NY 10036-8299

In re Application of	:	DECISION ON
Steffen NOEHTE et al	:	
Application No.: 10/474,581	:	
International App. No.: PCT/EP02/03497	:	
Int. Filing Date: 28 March 2002	:	
Priority Date: 12 April 2001	:	REQUEST UNDER
Attorney's Docket No.: 20496-405	:	
For: METHOD AND DEVICE FOR PRODUCING	:	
INDIVIDUALIZED HOLOGRAMS	:	37 CFR 1.497(d)

This is a decision on applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d)" filed on 02 March 2005.

BACKGROUND

In a decision from this Office mailed on 07 January 2005, the decision indicated that the request was dismissed because the request did not satisfy item (3) of 37 CFR 1.497(d). The assignee, tesa scribos GmbH, had neither a copy of the executed assignment in the file or the reel and frame number so it needed to establish the right to take action under 37 CFR 3.73(b.

On 02 March 2005, applicants filed the current communication, which included, *inter alia*, a copy of the assignment of the patent application to tesa scribos GmbH.

DISCUSSION

A review of the renewed request reveals that applicant has satisfied item (3) of 37 CFR 1.497(d). In regard to item (3), tesa scribos GmbH has submitted a copy of the assignment showing that tesa scribos GmbH is the assignee of the above application and has establish its right to take action under 37 CFR §3.73(b).

Accordingly, applicant is deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **15 March 2004**.

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

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ExxonMobil Chemical Company
Law Technology
PO Box 2149
Baytown TX 77522-2149

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Datta, et al.	:	
Application No. 10/474,594	:	DECISION ON PETITION
Filed: May 27, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 98B038D	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference

statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

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

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United States Patent and Trademark Office
P.O. Box 1450
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ExxonMobil Chemical Company
Law Technology
PO Box 2149
Baytown TX 77522-2149

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APR 12 2006
OFFICE OF PETITIONS

In re Application of :
Datta, et al. :
Application No. 10/474,594 : DECISION ON PETITION
Filed: May 27, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 98B038D :

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed March 24, 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 **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(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

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

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

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

Petitioners have been charged two petition fees. Only one is required. Pursuant to petitioners' authorization, deposit account no. 05-1712 will be credited one $1,370.00 petition fee.

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1713 for appropriate action on the amendment filed March 24, 2006, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

ATTACHMENT: Corrected Filing Receipt

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Michael J. Bujold
Davis & Bujold, P.L.L.C.
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Manchester, NH 03101-1151

In re Application of	
FANNING, et al.	DECISION ON RENEWED
Application No.: 10/474,597	
PCT No.: PCT/EP02/04178	PETITION UNDER
Int. Filing Date: 16 April 2002	
Priority Date: 20 April 2001	37 CFR 1.47(a)
Atty. Docket No.: ZAHFRI P326US	
For: SINGLE-SHAFT SWITCHING DEVICE	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a) filed 08 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 18 March 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the filed combined declaration and power of attorney without the signature of inventor Martin Buerkle. Applicant was afforded two months to file a proper response.

On 08 April 2004, applicant filed the renewed petition considered herein.

DISCUSSION

As detailed in the decision mailed 08 March 2004, 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 previously satisfied items (1), (3) and (4).

As to item (2), applicant's originally filed petition was dismissed as the referenced statement of facts was not in the petition. Applicant has presently filed a statement of facts regarding the alleged refusal to sign. Applicant's exhibits include an e-mail message from Mr. Buerkle detailing his refusal to sign an agreement without proper compensation. It appears that in light of this e-mail, a complete set of application papers was never sent to Mr. Buerkle. The

Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "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 papers....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 nonsiging 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."

It is not clear from the present filing that Mr. Buerkle understood exactly what he was being asked to sign. The instructional e-mails sent by Mr. Ronge have not been translated. They do not appear to contain any serial numbers pointing to a specific invention or application. In addition, it appears that the refusal e-mail has been translated from German to English, yet applicant has not provided any explanation as to who performed the translation and whether they are fluent in the two languages. Lastly, the response references several patents and an "agreement." This does not appear to be a refusal as to a specific oath or declaration. Translations and further explanation as to the e-mail correspondence would be helpful as to satisfying item (2) above that a set of the papers was not mailed to Mr. Buerkle as he understood exactly what he was being asked to sign ans refused to have the papers mailed to him. Alternatively, applicant may have actually mailed a set of papers to the inventor's last known address and his subsequent silence in not returning them would constitute a valid refusal.

CONCLUSION

For the reasons stated above, applicant's renewed 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

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

18 MAR 2004

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#3

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

In re Application of	:	
FANNING, et al.	:	DECISION ON PETITION
Application No.: 10/474,597	:	
PCT No.: PCT/EP02/04178	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 16 April 2002	:	
Priority Date: 20 April 2001	:	
Atty. Docket No.: ZAHFRI P326US	:	
For: SINGLE-SHAFT SWITCHING DEVICE	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The filed declaration contains an added page requesting that the filed declaration be accepted without the signature of joint inventor Martin BURKLE. The paper is being treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 16 April 2002, applicant filed international application PCT/EP02/04178 which claimed priority to an earlier application filed 20 April 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 October 2003. On 09 October 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; a First preliminary amendment and the combined declaration and power of attorney referenced above.

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...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."

Applicant alleges that inventor Martin BURKLE refuses to sign the declaration and the filed declaration references an accompanying "STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR." However, no such statement of facts exists in the application file. Absent evidence as explained 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

Derek A. Putonen
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04 APR 2005

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In re Application of	:	
FANNING, et al.	:	DECISION ON RENEWED
Application No.: 10/474,597	:	
PCT No.: PCT/EP02/04178	:	PETITION UNDER
Int. Filing Date: 16 April 2002	:	
Priority Date: 20 April 2001	:	37 CFR 1.47(a)
Atty. Docket No.: ZAHFRI P326US	:	
For: SINGLE-SHAFT SWITCHING DEVICE	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a) filed 28 January 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 November 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the filed combined declaration and power of attorney without the signature of inventor Martin Buerkle. Applicant was afforded two months to file a proper response.

On 28 January 2005, applicant filed the renewed petition considered herein.

DISCUSSION

As detailed in the decision mailed 26 November 2004, 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 previously satisfied items (1), (3) and (4).

As to item (2), applicant has presently provided sufficient evidence that Mr. Buerkle was presented with a complete set of application papers and has refused to execute and return the documents within the context of 37 CFR 1.47(a). As such, applicant has satisfied all four items 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 16 April 2002 under 35 U.S.C. 363, and will be given a date of **09 October 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his 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. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

04 APR 2005

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mr. Martin Buerkle
47013 Bing Drive
Canton, MI 48187

In re Application of :
FANNING, et al. :
Application No.: 10/474,597 :
PCT No.: PCT/EP02/04178 :
Int. Filing Date: 16 April 2002 :
Priority Date: 20 April 2001 :
Atty. Docket No.: ZAHFRI P326US :
For: SINGLE-SHAFT SWITCHING DEVICE :

Dear Mr. Buerkle:

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
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Michael J. Bujold
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GREENBERG TRAURIG, LLP
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NEW YORK NY 10166

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of
Hideki Tanaka
Application No. 10/474,600
Filed: October 9, 2003
Attorney Docket No. 44342.018200

ON PETITION

This is a decision on the petition filed July 28, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned July 25, 2006 for failure to timely pay the issue fee on or before July 24, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment which was mailed August 7, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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OFFICE OF PETITIONS

RATNERPRESTIA
P.O. BOX 1596
WILMINGTON, DE 19899

In re Application of :
Stephen C. Cary et al :
Application No. 10/474,621 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. UOD-159US

This is a decision on the petition, filed November 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 November 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1657 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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24 SEP 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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David W. Highet
Becton Dickinson & Company
1 Becton Drive
Franklin Lakes NJ 07417

In re Application of	:	
FINN et al.	:	
Application No.: 10/474,632	:	DECISION ON PETITION
PCT No.: PCT/US02/11630	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 11 April 2002	:	
Priority Date: 13 April 2001	:	
Attorney Docket No.: P-5292	:	
For: AMPLIFICATION AND DETECTION OF MYCOPLASMA PNEUMONIAE	:	

The petition to revive under 37 CFR 1.137(b) filed 22 January 2008 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 required reply (sequence listing) and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RADAR FISHMAN & GRAUER
SUITE 501
1233 20TH STREET NW
WASHINGTON, DC 20036

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MAR 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Haruhiko Itoh et al	:	
Application No. 10/474,638	:	DECISION GRANTING PETITION
Filed: October 10, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AA0-0269	:	

This is a decision on the petition, filed March 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1773 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\Mar10\474638.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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2-10-05

In re Application of
Bradley J. Downs
Serial Number: 10/474,642
Filed: October 9, 2003
For: RF TRANSMIT CALIBRATION
FOR OPEN SYSTEMS

ap

PETITION UNDER
M.P.E.P.708.02 VIII

This is in response to the petition filed January 24, 2005 requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP and 37 1.102 (fee paid).

DECISION

The petition has been considered and found to be deficient for the following reason: Section 708.02 VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that no US data base search was performed.

Accordingly, the petition is **DENIED**.

William Kryanski, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Stetina Brunda Garred & Brucker
Suite 250
75 Enterprise
Aliso Viejo CA 92656

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

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

On Feb. 22, 2005

TOWNSEND and TOWNSEND and CREW LLP

By: Connie Larson

PATENT
Attorney Docket No.: 040276-000100US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No. 4413
Bradley J. Downs	Examiner: K.S. Menon
Application No.: 10/474,642	Technology Center/Art Unit: 1723
Filed: October 9, 2003	REQUEST FOR RECONSIDERATION OF DENIAL OF PETITION TO MAKE SPECIAL
For: STRUCTURE AND PROCESS FOR CONTINUOUSLY TREATING DENTAL UNIT WATER (Corrected Title)	
Customer No.: 20350	

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAR 16 2005

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

Sir:

Attached is a copy of the Decision denying the Petition under MPEP 708.02 VIII filed January 24, 2005 regarding the above-filed application. The stated reason for denial is that no U.S. data base search was performed. Applicant respectfully requests that the denial be reconsidered for the following reasons:

1. As clearly stated in Paragraph (c) of the Petition, the subject application is a national stage application under 35 U.S.C. 371 based on International Application PCT/US/10960, filed April 9, 2002. The USPTO served as the International Searching Authority ("ISA") and an International Search Report ("ISR") was issued on August 6, 2002. Although already of record in the USPTO, a copy of the ISR is attached for your convenience. As indicated on the ISR (Sec. B) , a U.S. database search was performed in U.S. classes 210/749, 754, 764, 192, 198.1, 205, 206, and 916, as well as the West electronic database. Therefore, the statement in the Decision that "...no US data base search was performed." is not accurate.

14 OCT 2004

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BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ
250 EAST Wisconsin Avenue
Suite 1030
Milwaukee, WI 53202

In re Application of: BROD, Volker, et al.	:	
U.S. Application No.: 10/474,644	:	DECISION ON PETITION TO
PCT No.: PCT/EP02/04001	:	WITHDRAW HOLDING OF
International Filing Date: 10 April 2002	:	ABANDONMENT
Priority Date: 10 April 2001	:	(37 CFR 1.181)
Atty Docket No.: 127.018	:	
For: METHOD FOR SEPARATING	:	
ELECTRONIC COMPONENTS	:	
FROM A COMPOSITE	:	

This decision is issued in response to the "Petition To Resend Document And Restart Period For Response" filed 04 October 2004, treated herein as a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on the failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 06 February 2004. No petition fee is required.

BACKGROUND

On 10 April 2002, applicants filed international application PCT/EP02/04001 which claimed a priority date of 10 April 2001 and which designated the United States. On 07 November 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., 10 October 2003.

On 09 October 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 06 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

Applicants did not file a response to the Notification Of Missing Requirements before the expiration of the extendable response deadline. Accordingly, this application became abandoned as of midnight on 06 April 2004.

On 04 October 2004 applicants filed the "Petition To Resend Document And Restart Period For Response" considered herein. The petition asserts that the Notification of Missing Requirements was never received by applicants.

DISCUSSION

Section 711.03(c)II of the MPEP sets forth the requirements for a grantable petition to demonstrate the failure to receive an Office communication:

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

Here, the petition contains the required statement from practitioner that the Notification Of Missing Requirements was not received. It does not, however, contain the required statement that this has been confirmed by a search of the file jacket and docket records. In addition, applicant has failed to provide the required docket records, that is the full office docket record for responses due on 06 April 2004, the date on which a response to the Notification Of Missing Requirements was due.

Applicant has failed to satisfy all the requirements for a grantable petition. Accordingly, at the present time it cannot be concluded that the Notification Of Missing Requirements was not received by applicant.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice. The application remains abandoned.

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 1.181" and must include the required statements and docket records, as discussed above and set forth in the MPEP.

A courtesy copy of the Notification Of Missing Requirements mailed 06 February 2004 is attached hereto for applicant's review.

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: (571) 272-3296
Facsimile: (571) 273-0419

Encl.: Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 06 February 2004

04 NOV 2004

#2

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BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ
250 EAST Wisconsin Avenue
Suite 1030
Milwaukee, WI 53202

In re Application of: BROD, Volker, et al.	
U.S. Application No.: 10/474,644	DECISION ON PETITION TO
PCT No.: PCT/EP02/04001	WITHDRAW HOLDING OF
International Filing Date: 10 April 2002	ABANDONMENT
Priority Date: 10 April 2001	(37 CFR 1.181)
Atty Docket No.: 127.018	
For: METHOD FOR SEPARATING ELECTRONIC COMPONENTS FROM A COMPOSITE	

In a decision mailed by this Office on 14 October 2004, applicants' petition to withdraw the holding of abandonment was dismissed without prejudice for failure to satisfy the requirements of a grantable petition. Specifically, applicant had not provided the statements and docket records required for a grantable petition to confirm that applicant did not receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 06 February 2004.

On 01 November 2004, applicant filed the renewed petition considered herein. The 01 November 2004 submission includes the required statement from practitioner that a search of the file jacket and the docket records indicates that the Notification Of Missing Requirements was not received. The submission also includes the required docket records. Applicants have now satisfied all the requirements for a grantable petition. Accordingly, applicants' petition to confirm that the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 06 February 2002 was not received is **GRANTED**.

Based on this decision, the holding of abandonment set forth in the previous decision, based as it was on applicants' failure to respond to the non-received Notification Of Missing Requirements, is appropriately withdrawn.

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, including the mailing of a new Notification Of Missing Requirements (Form PCT/DO/EO/905).

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

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MICHAEL BEST & FRIEDRICH LLC
401 NORTH MICHIGAN AVENUE
SUITE 1900
CHICAGO IL 60611-4212

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Martinez et al. :
Application No. 10/476,660 : ON PETITION
Filed: March 10, 2003 :
Attorney Docket No. 201474-9012 :
Title: Method For Manufacturing Endo- :
Osseous Implants or Medical Prosthesis by :
Ionic Implantation Technique :

This is a decision on the "Request For Correction of Inventors' Name Due to PTO Error" filed June 27, 2005, which is being treated as a petition under 37 CFR 1.182.

The petition is **Dismissed as Moot**.

The correction of inventors' names (Martinez and Garcia) has been entered and made of record as of August 26, 2005.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Mohammad-Jalil Ahmadyar et al.	:	
Application No. 10/474,673	:	DECISION ON PETITION
Filed: October 15, 2003	:	TO WITHDRAW
Attorney Docket No. 118744-148	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

24 FEB 2005

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Richard A. Steinberg
Pillsbury Winthrop
PO Box 10500
McLean, VA 22102

In re Application of
SIELCKEN, Otto et al.
Application No.: 10/474,680
PCT Application No.: PCT/NL02/00238
International Filing Date: 11 April 2002
Priority Date: 13 April 2001
Attorney Docket No.: 030268-0306348
For: CONTINUOUS HYDROFORMYLATION PROCESS FOR PRODUCING AN ALDEHYDE

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 14 January 2005 is **DISMISSED**.

BACKGROUND

On 11 April 2002, applicant filed international application PCT/NL02/00238, which claimed a priority date of 13 April 2001. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 October 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 13 October 2003.

On 10 October 2003, applicant filed a transmittal letter for entry into the national stage, accompanied by the basic national fee.

On 26 April 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 27 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 14 January 2005, applicant filed a "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," accompanied by, *inter alia*, the petition fee and a 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).

Items (1), (3) and (4) have been satisfied. The required response is a declaration in compliance with 37 CFR 1.497(a)-(b). Applicant has supplied two pages 1 and one page 2. 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 there were at least two copies of the declaration executed. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons listed above, 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.

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 1.137(b)."

The application remains **ABANDONED**.

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

29 MAR 2005

#6

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MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

In re Application of	:	
SIELCKEN, Otto et al.	:	
Application No.: 10/474,680	:	DECISION ON
PCT Application No.: PCT/NL02/00238	:	
International Filing Date: 11 April 2002	:	PETITION
Priority Date: 13 April 2001	:	
Attorney Docket No.: 030268-0306348	:	UNDER 37 CFR 1.137(b)
For: CONTINUOUS HYDROFORMYLATION PROCESS FOR PRODUCING AN ALDEHYDE	:	

This is a corrected decision on petition under 37 CFR 1.137(b).

BACKGROUND

On 11 April 2002, applicant filed international application PCT/NL02/00238, which claimed a priority date of 13 April 2001. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 October 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 13 October 2003.

On 10 October 2003, applicant filed a transmittal letter for entry into the national stage, accompanied by the basic national fee.

On 26 April 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 27 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 14 January 2005, applicant filed a "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," accompanied by, *inter alia*, the petition fee and a declaration.

On 24 February 2005, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicant's petition to applicant's former address of record.

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).

Items (1), (3) and (4) have been satisfied. The required response is a declaration in compliance with 37 CFR 1.497(a)-(b). Applicant has supplied two pages 1 and one page 2. 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 there were at least two copies of the declaration executed. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons listed above, 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.

The decision on petition under 37 CFR 1.137(b) mailed 24 February 2005 is **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 1.137(b)."

The application remains **ABANDONED**.

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
Attorney Advisor
PCT Legal Administration

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

18 JUL 2005

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MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

In re Application of	:	
SIELCKEN, Otto et al.	:	
Application No.: 10/474,680	:	DECISION ON
PCT Application No.: PCT/NL02/00238	:	
International Filing Date: 11 April 2002	:	PETITION
Priority Date: 13 April 2001	:	
Attorney Docket No.: 030268-0306348	:	UNDER 37 CFR 1.137(b)
For: CONTINUOUS HYDROFORMYLATION PROCESS FOR PRODUCING AN ALDEHYDE	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.137(b)," filed in the United States Patent and Trademark Office on 03 May 2005.

BACKGROUND

On 11 April 2002, applicants filed international application PCT/NL02/00238, which claimed a priority date of 13 April 2001. A copy of the application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 October 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 13 October 2003.

On 10 October 2003, applicants filed a transmittal letter for entry into the national stage, accompanied by the basic national fee.

On 26 April 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 27 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 14 January 2005, applicants filed a "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," accompanied by, *inter alia*, the petition fee and a declaration.

On 24 February 2005, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicant's petition to applicant's former address of record.

On 29 March 2005, the Office mailed corrected a corrected Decision On Petition to applicants' current address.

On 03 May 2005, applicants resubmitted the original declarations accompanied by the missing pages.

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).

Items (1), (3) and (4) were previously satisfied. Item (2) has now been satisfied. The declarations of the inventors comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons listed above, 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.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of 03 May 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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Barry E Bretschneider
Morrison & Foerster
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Remco Douwinus Vuijk :
Application No. 10/474684 :
Filing or 371(c) Date: 10/14/2003 :
Patent No.: 6989039 :
Issue Date: 01/24/2006 :
Attorney Docket No. :
424662007000 :

This is a decision on the correspondence entitled "Request to Correct Assignee's name Pursuant to 37 CFR 3.81(b)", filed April 20, 2006, requesting a change in the name of the assignee after payment of the issue fee. The correspondence is properly treated as a petition under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
HAUSMANN, Rudiger et al. :
Application No. 10/474,689 : DECISION ON PETITION
Filed: April 02, 2004 : TO WITHDRAW
Attorney Docket No. **449122065100** : 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 **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RUDIGER HAUSMANN**
KAPELLENWIESE 10
PENZBER, GERMANY 82377

cc: **KEVIN 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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

COPY MAILED

JUL 0 9 2007

OFFICE OF PETITIONS

In re Application of :

GUAN, Qi :
Application No. 10/474,698 : DECISION ON PETITION
Filed: April 19, 2003 : TO WITHDRAW
Attorney Docket No. **449122065400** : 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 **APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **QI GUAN**
PLATZERGASSE 3 C/7
WIEN, AUSTRIA A-1210

cc: **KEVIN R. SPIVAK**
BELL, BOYD & LLOYD LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

21 JAN 2004

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

TOWNSEND TOWNSEND AND CREW LLP
Two Embarcadero Center,
8th Floor
San Francisco, CA 94111-3834

In re Application of :
FRAENKEL, Miriam *et al* :
Application No.: 10/474,701 :
Filing Date: 08 October 2003 : **DECISION**
Attorney Docket No.: 040013-000740US :
For: SERIAL OUTPUT FROM A CMOS IMAGER :

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

BACKGROUND

On 29 May 2002, applicants filed international application PCT/US02/17358 claiming a priority date of 29 May 2001.

On 08 October 2003, applicants filed four transmittal letters for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. The files were assigned serial number 10/474,275; 10/474,701; 10/474,798 and 10/474,799. Application 10/474,275 proceeded as the national stage of PCT/US02/17358.

01/23/2004 SNAJARRO 00000003 201430 10474701

01 FC:1460 130.00 DA

DISCUSSION

As is evident from the above recited facts, four sets of papers to enter the national stage were submitted for international application number PCT/US02/17358. 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 four sets of national stage papers to enter the United States was improper.

Applicants have submitted papers that, *inter alia*, request the above-captioned application (SERIAL OUTPUT FROM A CMOS IMAGER, Docket No. 040013-000740US) be processed as a Continuation of the U.S. National Phase application based on PCT/US02/17358. This is treated as a petition under 37 CFR 1.182.

A review of the papers filed 08 October 2003 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 $130.00 petition fee has been charged from Deposit Account No. 20-1430 as authorized.

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 **08 October 2003** claiming priority to PCT/US02/17358 filed 29 May 2002. OIPE should remove all references that this is a national stage application and correct all fees.

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. 10/474,701) and the international application (PCT/US02/17358) designating the United States were copending on 08 October 2003. 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, "[t]his is an continuation of international application PCT/US02/17358, filed 29 May 2002, which designated the United States." **Applicants must provide this reference within four (4) months from the date of national stage commencement. *See* 37 CFR 1.78(a)(2)(ii).**

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Application of :
KAWAI et al. : ON APPLICATION FOR
Application No. 10/474,714 : PATENT TERM ADJUSTMENT
Filed: 10/10/2003 :
Atty Docket No. 053466-0371 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705," filed February 22, 2010, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1185 days, not 439 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. Furthermore, it appears that applicants are disputing the period of adjustment under 37 CFR 1.702(a)(1).

The request is **DISMISSED**.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

> An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the

notice of allowance. An application for patent term adjustment under this section must be accompanied by:

(1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance and with payment of the issue fee. Thus, the application for patent term adjustment was timely filed. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the application for patent term adjustment. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e). Applicant is not precluded from promptly paying the required fee for consideration of this application for patent term adjustment.

However, with respect to Office delay in taking more than 3 years to issue the patent, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office of Data Management has been advised of this decision and directed to go forward with processing of this application into a patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 21, 2006

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/474723 Patent No.: 7,121,455 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The request has been approved since it is correcting claim dependency

SPE

2876
Art Unit

OK to Enter CC 11/3/06

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,121,455 B2 Page 1 of 1

APPLICATION NO.: 10/474,723

ISSUE DATE: October 17, 2006

INVENTOR: Charles R. CHAMBERLAIN

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

In claim 6, column 7, line 4, "The method of claim 1" should read --The system of claim 7--.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

DEC 04 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Muraoka, et al. : DECISION ON APPLICATION
Application No. 10/474,725 : FOR PATENT TERM ADJUSTMENT
Filed: October 14, 2003 :
Atty. Dkt. No.: 0020-5188P :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT"" filed April 1, 2005. This matter is being properly treated under 37 CFR 1.705(b) as an application patent term adjustment.

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

The correct Patent Term Adjustment ("PTA") at the time of the issuance is 40 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 40 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

On February 24, 2005,the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 37 days. On April 1, 2005, applicants timely submitted the instant application for patent term adjustment[1].

Applicants argue that the correct PTA at the time of allowance is 40 and that there was no failure to engage in reasonable efforts to conclude prosecution.

A review of the application history reveals that as of the time of allowance, an adjustment of 40 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2).

The adjustment of 40 days was errantly reduced three days in connection with the Information Disclosure Statement (IDS) filed

[1] PALM records show that the Issue Fee payment was received in the Office on April 11, 2005.

August 6, 2004 pursuant to 37 CFR 1.704(c)(8). A review of the application history, however, indicates that the IDS submitted August 6, 2004 included, in accordance with 37 CFR 1.704(d), 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. Therefore, submission of the IDS is not deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 CFR 1.704.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 40 days.

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

The application file is being forwarded to the Publications Division for issuance of a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Thursday

PALM INTRANET

Date: 4/6/2006
Time: 15:10:07

PTA Calculations for Application: 10/474725			
Application Filing Date:	10/14/2003	PTO Delay (PTO):	40
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3
Post-Issue Petitions:	0	Total PTA (days):	40
PTO Delay Adjustment:	3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
36	04/06/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	3		
20	01/12/2005	MAIL NOTICE OF ALLOWANCE	40		13
19	01/10/2005	ISSUE REVISION COMPLETED			
18	01/10/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
17	01/10/2005	NOTICE OF ALLOWABILITY			
16	08/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		3	13
15	08/03/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
14	11/04/2004	DATE FORWARDED TO EXAMINER			
13	08/03/2004	RESPONSE AFTER NON-FINAL ACTION			
12	08/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/03/2004	WORKFLOW INCOMING AMENDMENT IFW			
10	05/05/2004	MAIL NON-FINAL REJECTION			
9	05/03/2004	NON-FINAL REJECTION			
8	04/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	04/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
6	01/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	03/07/2004	CLEARED BY OIPE CSR			
4	10/14/2003	371 COMPLETION DATE			
3	02/17/2004	APPLICATION DISPATCHED FROM OIPE			
2	02/17/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	10/14/2003	INITIAL EXAM TEAM NN			

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John C. Kerins
MILES & STOCKBRIDGE
1751 Pinnacle Drive, Suite 500
McLean, VA 22102-3833

In re Application of :
STREZOV, Lazar :
Application No.: 10/474,745 :
PCT No.: PCT/AU02/00457 :
Int. Filing Date: 10 April 2002 : **DECISION**
Priority Date Claimed: 10 April 2001 ::
Attorney Docket No.: T2211-8752US01 :
For: ELECTROLYTIC REDUCTION OF :
METAL OXIDES

This decision is in response to applicants' "Petition Under 37 C.F.R. §1.182" filed on 04 August 2004.

BACKGROUND

On 27 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) must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 27 April 2004, applicants filed a one-month extension fee and an executed declaration listing the sole inventor as Lazar STREZOV.

On 06 July 2004, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 27 April 2004 does not comply with 37 CFR 1.497(a) and (b) because the name on the declaration does not correspond with that on the published application.

On 04 August 2004, applicant filed a "Response to Notification of Defective Response" which was accompanied by, *inter alia*, the petition under 37 CFR 1.182 and a declaration of Greg Munt ("Decl.").

DISCUSSION

In the instant response, applicants submitted a petition under 37 CFR 1.182 to correct the record to indicate that the sole inventor name is Lazar Strezov as indicated on the declaration filed 27 April 2004. The international publication ("WO 02/083993") records the name of the sole inventor as Les STRESOV.

Petitioner included a declaration by Greg Munt, a partner of the "agents of record" who attests that after an investigation, he found that the discrepancy in the name of the inventor "is the result of an error in the PCT Request form, which was prepared under my supervision and filed as part of the international application. In particular, the PCT Request form erroneously listed the inventor's name as "STRESOV, Les", whereas the inventor's name should have been shown correctly as --STREZOV, Lazar--." Decl. at ¶ 3. Mr. Munt also declares that "[t]he error in the PCT Request form occurred without deceptive intention and was evidently carried over into the published international application." Id. at ¶ 4.

This evidence is sufficient for a grantable petition. The $130.00 petition fee has been paid.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The name of the sole inventor has been changed to Lazar Strezov. Hence, the declaration filed 27 April 2004 is now 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 10 April 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 27 April 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/24/08 **Paper No.:** _____

TO SPE OF : **Technology Center** 1796 10/474753

SUBJECT : Request for Certificate of Correction on Patent No.: 7262262 B2

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

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans

Thank You For Your Assistance

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:

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SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 11/13/08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/474753 Patent No.: 7262262B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

[signature]
SPE

1796
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/23/07

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/474755** Patent No.: **7056682**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ 1641

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 07/21/09

Patent No. : 7384775 B2
Ser. No. : 10/474,776
Inventor(s) : ZAGURSKY, ROBERT JOHN
Issued : 06/10/08
Title : **NOVEL STREPTOCOCCUS PNEUMONIAE OPEN READING FRAMES ENCODING POLYPEPTIDE ANTIGENS AND USES THEREOF**
Docket No. : **AM100649**

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: (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.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

LMN

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 30 2010

OFFICE OF PETITIONS

WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

In re Patent No. 7,384,775 :
Issue Date : June 10, 2008 :
Application No. 10/474,776 : ON PETITION
Filed: January 5, 2004 :
Attorney Docket No. AM100649 :

This is a decision on the petition, filed December 22, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

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

The petition fee of $130 has been charged to Deposit Account No. 01-1425.

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

Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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OFFICE OF PETITIONS

In re Patent No. 7,384,775 :
Issue Date: June 10, 2008 :
Application No. 10/474,776 : ON PETITION
Filed: January 5, 2004 :
Attorney Docket No. AM100649 :

This is a decision on the petition April 29, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

21 JAN 2004

#2

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TOWNSEND TOWNSEND AND CREW LLP
Two Embarcadero Center,
8th Floor
San Francisco, CA 94111-3834

In re Application of :
FRAENKEL, Miriam *et al* :
Application No.: 10/474,798 :
Filing Date: 08 October 2003 :
Attorney Docket No.: 040013-000710US : **DECISION**
For: CMOS IMAGER FOR CELLULAR :
APPLICATIONS AND METHODS OF :
USING SUCH :

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

BACKGROUND

On 29 May 2002, applicants filed international application PCT/US02/17358 claiming a priority date of 29 May 2001.

On 08 October 2003, applicants filed four transmittal letters for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. The files were assigned serial number 10/474,275; 10/474,701; 10/474,798 and 10/474,799. Application 10/474,275 proceeded as the national stage of PCT/US02/17358.

DISCUSSION

As is evident from the above recited facts, four sets of papers to enter the national stage were submitted for international application number PCT/US02/17358. 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 four sets of national stage papers to enter the United States was improper.

Applicants have submitted papers that, *inter alia*, request the above-captioned application (CMOS IMAGER FOR CELLULAR APPLICATIONS AND METHODS OF USING SUCH, Docket No. 040013-000710US) be processed as the national phase of PCT/US02/17358. This is not possible. As stated above, U.S. application 10/474,275 has already been processed as the national stage of PCT/US02/17358. Nevertheless, these papers have been treated as a petition under 37 CFR 1.182 to treat the above-captioned application as a Continuation of the U.S. National Phase application based

04/05/2004 SNAJARRO 00000003 201430 10474798

01 FC:1460 130.00 DA

on PCT/US02/17358.

A review of the papers filed 08 October 2003 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 $130.00 petition fee has been charged from Deposit Account No. 20-1430 as authorized.

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 **08 October 2003** claiming priority to PCT/US02/17358 filed 29 May 2002. OIPE should remove all references that this is a national stage application and correct all fees.

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. 10/474,798) and the international application (PCT/US02/17358) designating the United States were copending on 08 October 2003. 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, "[t]his is an continuation of international application PCT/US02/17358, filed 29 May 2002, which designated the United States." **Applicants must provide this reference within four (4) months from the date of national stage commencement. *See* 37 CFR 1.78(a)(2)(ii).**

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

21 JAN 2004

#2

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TOWNSEND TOWNSEND AND CREW LLP
Two Embarcadero Center,
8th Floor
San Francisco, CA 94111-3834

In re Application of :
FRAENKEL, Miriam *et al* :
Application No.: 10/474,799 :
Filing Date: 08 October 2003 : **DECISION**
Attorney Docket No.: 040013-000730US :
For: BUILT-IN SELF TEST FOR A CMOS IMAGER :

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

BACKGROUND

On 29 May 2002, applicants filed international application PCT/US02/17358 claiming a priority date of 29 May 2001.

On 08 October 2003, applicants filed four transmittal letters for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. The files were assigned serial number 10/474,275; 10/474,701; 10/474,798 and 10/474,799. Application 10/474,275 proceeded as the national stage of PCT/US02/17358.

04/05/2004 SNAJARRO 00000004 201430 10474799

01 FC:1460 130.00 DA

DISCUSSION

As is evident from the above recited facts, four sets of papers to enter the national stage were submitted for international application number PCT/US02/17358. 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 four sets of national stage papers to enter the United States was improper.

Applicants have submitted papers that, *inter alia*, request the above-captioned application (BUILT-IN SELF TEST FOR A CMOS IMAGER, Docket No. 040013-000730US) be processed as a Continuation of the U.S. National Phase application based on PCT/US02/17358. This is treated as a petition under 37 CFR 1.182.

A review of the papers filed 08 October 2003 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 $130.00 petition fee has been charged from Deposit Account No. 20-1430 as authorized.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is hereby **GRANTED**.

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. 10/474,799) and the international application (PCT/US02/17358) designating the United States were copending on 08 October 2003. 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, "[t]his is an continuation of international application PCT/US02/17358, filed 29 May 2002, which designated the United States." **Applicants must provide this reference within four (4) months from the date of national stage commencement. *See* 37 CFR 1.78(a)(2)(ii).**

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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

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OFFICE OF PETITIONS

In re Application of :
Kimihiro Kawagoe :
Application No. 10/474,808 :
Filed: October 14, 2003 :
Attorney Docket No. 925-268 :

ON PETITION

This is a decision on the petition, filed April 24, 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 October 3, 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 2822 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).

17 MAR 2006

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CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

In re Application of	:	
VOLK, Tomaz	:	
Application No.: 10/474,810	:	DECISION ON
PCT No.: PCT/SI02/00010	:	
Int. Filing Date: 28 March 2002	:	PETITION
Priority Date: 13 April 2001	:	
Attorney Docket No.: 21282-00037-US	:	UNDER 37 CFR 1.181
For: A SYSTEM FOR CHARGING SMALL AMOUNTS ON ONLINE NETWORKS	:	

This decision is in response to applicant's "Status Inquiry," filed on 29 August 2005. It has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 14 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 18 March 2004, the Office mailed Notification of Missing Requirements, 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 April 2004, applicant submitted a letter, accompanied by declaration and the surcharge.

On 19 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/RO/909) indicating that the application went abandoned for failure to timely respond to the Notification of Missing Requirements.

On 26 October 2004, applicant submitted a copy of the 21 April 2004 response and a petition to withdraw the holding of abandonment.

On 10 November 2004, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application has a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 21 April 2004.

On 29 August 2005, applicant submitted a second petition to withdraw the holding of abandonment and included the 19 October 2004 petition.

DISCUSSION

The originally filed papers are in the file and in order. The declaration submitted on 21 April 2004 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notification of Abandonment mailed 19 October 2004 is **VACATED**.

This application is being referred to the Technology Center for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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SUITE 1400
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of
Sukekazu Aratani, et al.
Application No.: 10/474,829
Filed: March 11, 2004
Attorney Docket No.: 83388.0014

ON PETITION

This is a decision on the petition, filed March 24, 2009, 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 3, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2892 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment of the application.*

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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

12/31/03

Fish and Neave
50th Floor
1251 Avenue of the Americas
New York NY 10020-1105

Dear Applicant:

The Box PGPub replacement drawings for application number 10/474,832 received on 11/13/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

09 MAR 2004

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Sana A. Pratt
10821 Hillbrooke Lane
Potomac, MD 20854

In re Application of KRAGIE	:	
U.S. Application No.: 10/474,838	:	
PCT Application No.: PCT/US01/32066	:	
Int. Filing Date: 10 October 2001	:	
Priority Date Claimed: 11 October 2000	:	DECISION
Attorney Docket No.: 013/277/SAP	:	
For: COMPOSITION AND METHOD OF ALLEVIATING ADVERSE SIDE EFFECTS AND/OR ENHANCING EFFICACY OF AGENTS THAT INHIBIT AROMATASE	:	

This is in response to applicant's "Petition for Revival of Application" filed 14 October 2003.

BACKGROUND

On 10 October 2001, applicant filed international application PCT/US01/32066, which claimed priority of an earlier United States application filed 11 October 2000. The thirty-month period for paying the basic national fee in the United States expired on 11 April 2003.

International application PCT/US01/32066 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 October 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

Request for Legal Staff Consideration

Serial No. 10/474838 RECEIVED Date : 3/8/04

09 MAR 2004
Legal Staff
International Division

Request : ☑ Petition To Revive Unintentionally Abn. Appl. ☐ Petition under Rule 1.47

☐ Other : _____

Requestor : John Anderson Supervisor : C. Short

Response : _____

By : _____ Date : _____

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Brinks Hofer
Gilson & Lione
PO Box 10395
Chicago IL 60610

In re Application of :
Okada : LETTER REGARDING PTA
Application No. 10/474,855 :
Filed: October 9, 2003 :
Atty. Dkt. No.: 5404/50 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed February 13, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed November 28, 2007 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 56 days. Applicant indicates that the adjustment of 56 days may extend the term of the patent by too many days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is zero days.

As reflected in the Determination of Patent Term Adjustment mailed November 28, 2007, an adjustment of 162 can be attributed to the Office. As further reflected by the Determination of Patent Term Adjustment, the adjustment of 162 days is properly reduced 106 days for applicant's failure to engage in reasonable efforts to conclude prosecution.

However, the Office neglected to assess the following reductions:

> 48 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply filed August 10, 2005. An initial reply to the restriction requirement mailed May 20, 2005 was filed June 23, 2005. A supplemental response was filed August 10, 2005. Accordingly, the reduction began June 24, 2005, the day after the date that the initial reply was filed, and ended August 10, 2005, the date the supplemental response was filed.

57 days in accordance with 37 CFR 1.704(b) in connection with the reply filed February 14, 2006 in response to the restriction requirement mailed September 9, 2005. The reduction began December 10, 2005, the day after the date that is three months after the date that the restriction requirement was mailed, and ended February 14, 2006, the date that the response thereto was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of zero days (adjustments totalling 162 days less reductions totalling 211 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Patent Publication for issuance of the patent.

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

Kery A. Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

PALM INTRANET

Day : Sunday
Date: 6/1/2008
Time: 10:24:46

PTA Calculations for Application: 10/474855			
Application Filing Date:	10/09/2003	PTO Delay (PTO):	162
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	106
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-105		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		57	
61	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		48	
54	11/28/2007	MAIL NOTICE OF ALLOWANCE			
53	11/15/2007	ISSUE REVISION COMPLETED			
52	11/15/2007	DOCUMENT VERIFICATION			
51	11/15/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	11/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
49	11/13/2007	NOTICE OF ALLOWABILITY			
48	11/01/2007	DATE FORWARDED TO EXAMINER			
47	10/26/2007	AMENDMENT AFTER FINAL REJECTION			
46	07/27/2007	MAIL FINAL REJECTION (PTOL - 326)			
45	07/23/2007	FINAL REJECTION			
44	05/16/2007	DATE FORWARDED TO EXAMINER			
43	05/11/2007	RESPONSE AFTER NON-FINAL ACTION		45	39
42	05/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	05/03/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
40	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	12/27/2006	MAIL NON-FINAL REJECTION			
38	12/21/2006	NON-FINAL REJECTION			
37	10/10/2006	DATE FORWARDED TO EXAMINER			
36	10/03/2006	RESPONSE AFTER NON-FINAL ACTION		61	34
35	10/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	05/03/2006	MAIL NON-FINAL REJECTION			

33	05/01/2006	NON-FINAL REJECTION			
32	02/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	03/14/2006	MAIL NOTICE OF WITHDRAWN ACTION			
30	03/14/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
29	02/14/2006	PETITION FEE PAID			
28	02/16/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
25	02/16/2006	DATE FORWARDED TO EXAMINER			
24.1	02/14/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
24	02/14/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
23	02/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	05/11/2004	CORRECTED FILING RECEIPT			
21	09/09/2005	MAIL RESTRICTION REQUIREMENT			
20	09/06/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
19	07/01/2005	DATE FORWARDED TO EXAMINER			
18	06/23/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
17	05/20/2005	MAIL RESTRICTION REQUIREMENT	162		-1
16	05/18/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15	12/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	12/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	10/09/2003	PRELIMINARY AMENDMENT			
12	02/17/2004	REFERENCE CAPTURE ON IDS			
11.7	02/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/11/2004	TRANSFER INQUIRY TO GAU			
9	04/30/2004	CLEARED BY OIPE CSR			
8	10/09/2003	371 COMPLETION DATE			
7	04/21/2004	APPLICATION RETURN FROM OIPE			
6	04/21/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	04/21/2004	APPLICATION RETURN TO OIPE			
3	04/20/2004	APPLICATION DISPATCHED FROM OIPE			
2	04/20/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			

1	10/09/2003	INITIAL EXAM TEAM NN

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 7,396,898 :
Issued: July 8, 2008 : LETTER REGARDING PTA and
Application No. 10/474,855 : NOTICE OF INTENT TO ISSUE
Filed: October 9, 2003 : CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 5404/50. :

This decision is in response to the "REQUEST FOR REVIEW OF TERM ADJUSTMENT," filed September 8, 2008. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,396,898 on July 8, 2008. The patent issued with a patent term adjustment (PTA) of 427 days. Patentees indicate that 427 days may extend the term of the patent by too many days and request review of the calculation and a certificate of correction if necessary.

The calculation of adjustment has been reviewed and found to contain error. The correct adjustment at the time of issuance is 413 days.

The application is entitled to an adjustment of 162 days in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the restriction requirement on May 20, 2005.

The application is entitled to an adjustment of 25 days in accordance with 37 CFR 1.702(a)(4) in connection with the issuance of the patent more than four months after payment of the issue fee on July 8, 2008.

The application is entitled to an adjustment of 447 days pursuant to 37 CFR 1.702(b). The patent issued three years and 634 days after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. As 187 days of examination delay overlap with the 634 days of over three year delay, entry of both periods is not warranted.

The adjustment totaling 634 days is properly reduced 61 days in accordance with 37 CFR 1.704(b) in connection with the response filed October 3, 2006.

The adjustment totaling 634 days is properly reduced 45 days in accordance with 37 CFR 1.704(b) in connection wit the response filed May 11, 2007.

The adjustment totaling 634 days is properly reduced 48 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply filed August 10, 2005.

The adjustment totaling 634 day is properly reduced 67 days in accordance with 37 CFR 1.704(b) in connection with the reply filed February 14, 2006.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 413 days (adjustments totaling 634 days less reduction of 221 days).

No additional fee has been assessed in connection with this matter.

Any request for reconsideration of this matter must be submitted within THIRTY DAYS. Extensions of time under 37 CFR 1.136 are not permitted.

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 413 days.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

Day : Thursday
Date: 6/18/2009

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Time: 18:48:51

PTA Calculations for Application: 10/474855			
Application Filing Date:	10/09/2003	PTO Delay (PTO):	638
Issue Date of Patent:	07/08/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	106
Post-Issue Petitions:	0	Total PTA (days):	413
PTO Delay Adjustment:	-119		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
73	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		10	
67.5	06/18/2008	PTA 36 MONTHS	451		
67	07/08/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	25		59
66	06/06/2008	EXPORT TO FINAL DATA CAPTURE			
65	06/05/2008	DISPATCH TO FDC			
64	06/02/2008	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
63	06/02/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
63	06/02/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
62	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		57	
62	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
61	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		48	
61	06/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
60	02/28/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
59	02/13/2008	ISSUE FEE PAYMENT VERIFIED			
58	02/13/2008	PETITION ENTERED			
57	02/13/2008	ISSUE FEE PAYMENT RECEIVED			
56	02/06/2008	FINISHED INITIAL DATA CAPTURE			
55	12/04/2007	EXPORT TO INITIAL DATA CAPTURE			
54	11/28/2007	MAIL NOTICE OF ALLOWANCE			

53	11/15/2007	ISSUE REVISION COMPLETED			
52	11/15/2007	DOCUMENT VERIFICATION			
51	11/15/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	11/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
49	11/13/2007	NOTICE OF ALLOWABILITY			
48	11/01/2007	DATE FORWARDED TO EXAMINER			
47	10/26/2007	AMENDMENT AFTER FINAL REJECTION			
46	07/27/2007	MAIL FINAL REJECTION (PTOL - 326)			
45	07/23/2007	FINAL REJECTION			
44	05/16/2007	DATE FORWARDED TO EXAMINER			
43	05/11/2007	RESPONSE AFTER NON-FINAL ACTION		45	39
42	05/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	05/03/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
40	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	12/27/2006	MAIL NON-FINAL REJECTION			
38	12/21/2006	NON-FINAL REJECTION			
37	10/10/2006	DATE FORWARDED TO EXAMINER			
36	10/03/2006	RESPONSE AFTER NON-FINAL ACTION		61	34
35	10/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	05/03/2006	MAIL NON-FINAL REJECTION			
33	05/01/2006	NON-FINAL REJECTION			
32	02/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	03/14/2006	MAIL NOTICE OF WITHDRAWN ACTION			
30	03/14/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
29	02/14/2006	PETITION FEE PAID			
28	02/16/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
25	02/16/2006	DATE FORWARDED TO EXAMINER			
24.1	02/14/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
24	02/14/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
23	02/14/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

22	05/11/2004	CORRECTED FILING RECEIPT			
21	09/09/2005	MAIL RESTRICTION REQUIREMENT			
20	09/06/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
19	07/01/2005	DATE FORWARDED TO EXAMINER			
18	06/23/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
17	05/20/2005	MAIL RESTRICTION REQUIREMENT	162		-1
16	05/18/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15	12/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	12/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	10/09/2003	PRELIMINARY AMENDMENT			
12	02/17/2004	REFERENCE CAPTURE ON IDS			
11.7	02/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/11/2004	TRANSFER INQUIRY TO GAU			
9	04/30/2004	CLEARED BY OIPE CSR			
8	10/09/2003	371 COMPLETION DATE			
7	04/21/2004	APPLICATION RETURN FROM OIPE			
6	04/21/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	04/21/2004	APPLICATION RETURN TO OIPE			
3	04/20/2004	APPLICATION DISPATCHED FROM OIPE			
2	04/20/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	10/09/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,396,898 B2
DATED	:	July 8, 2008
INVENTOR(S)	:	Okada

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 427 days

Delete the phrase "by 427 days" and insert – by 413 days--

22 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

Law Offices of James E. Walton PLLC
1169 N. Burleson Blvd
Suite 107-328
Burleson, TX 76028

In re Application of	:	
SEHGAL, Ajay et al.	:	
Application No.: 10/474,860	:	DECISION ON
PCT No.: PCT/US02/12643	:	
Int. Filing Date: 19 April 2002	:	REQUEST
Priority Date: 19 April 2001	:	
Attorney's Docket No.: 0837RF-H453-US	:	UNDER 37 CFR 1.42
For: ROTOR SYSTEM VIBRATION ABSORBER	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the declaration submitted 02 July 2004 reveals an indication that joint inventor Cecil E. Covington is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 19 April 2002, applicants filed international application PCT/US02/12643, which claimed a priority date of 19 April 2001. The deadline for entry into the national stage in the United States was 20 October 2003 (19 October 2003 was a Sunday).

On 13 October 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 26 April 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 02 July 2004, applicants submitted "Response to Notification of Missing Requirements Under 35 U.S.C. §371" accompanied by a declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

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 appears to list the information for the inventors, including Cecil E. Covington, but does not list the information for the legal representative.

Additionally, applicants have supplied one page 1, three copies of page 2, and four copies of the additional inventor page. Each page 2 and additional inventor page lists the same inventors, but the pages were separately 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. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

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. As of 01 October 2004, the undersigned may be reached at 571-272-3292 by phone or 571-273-0459 by facsimile.

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

17 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Law Offices of James E. Walton PLLC
1169 N. Burleson Blvd
Suite 107-328
Burleson, TX 76028

In re Application of	:	
SEHGAL, Ajay et al.	:	
Application No.: 10/474,860	:	DECISION ON
PCT No.: PCT/US02/12643	:	
Int. Filing Date: 19 April 2002	:	REQUEST
Priority Date: 19 April 2001	:	
Attorney's Docket No.: 0837RF-H453-US	:	UNDER 37 CFR 1.42
For: ROTOR SYSTEM VIBRATION ABSORBER	:	

This decision is in response to applicants' "Renewed Submission Under 37 CFR §1.42," filed in the United States Patent and Trademark Office on 22 November 2004.

BACKGROUND

On 22 September 2004, the Office mailed Decision On Request Under 37 CFR 1.42, dismissing applicants' request and setting a two month period for reply.

On 08 October 2004, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the oath or declaration was not in compliance with 37 CFR 1.497(a)-(b), because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. It set a one month period for reply or the time remaining in the Notification of Missing Requirements.

On 22 November 2004, applicants filed the instant renewed submission, accompanied by a declaration of the inventors.

DISCUSSION

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 08 October 2004, issued in error. The applicable time period was the one set in the decision on request mailed 22 September 2004.

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 lists the inventors and their citizenships and the legal representative and her 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 Notification of Defective Response (Form PCT/DO/EO/916) mailed 08 October 2004 is **VACATED**.

The application has a date of 22 November 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 27 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Horst Sauer et al.	:	
Application No. 10/474,872	:	DECISION ON PETITION
Filed: May 11, 2004	:	PURSUANT TO
Attorney Docket No.: 32860-000650/US	:	37 C.F.R. § 1.181(A)
Title: METHOD FOR DETERMINING AND RECORDING SYSTEM INFORMATION AND FUNCTION IN DISTRIBUTED PARALLEL COMPONENT BASED SOFTWARE SYSTEMS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on February 24, 2009, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 4, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became

abandoned on July 5, 2008. A notice of abandonment was mailed on November 18, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office**

> **action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

With this petition, Petitioner has stated that the communication of April 4, 2008 was not received at the correspondence address of record,[1] has indicated that a search of the file jacket and the application contents indicates that the Office action was not received,[2] and has provided a copy of the file jacket,[3] the master docket,[4] and the "docketing system entry" for this

1 Petition, pages 1 and 2.
2 Id. at 1.
3 Exhibit 1.
4 Exhibit 2.

application.[5] It is noted that the relevant Office communication does not appear on the file jacket, the master docket, or the docketing system entry for this application.

Petitioner's assertion of non-receipt has not been adequately supported, and as such, the record does not support a finding that the docketing system is sufficiently reliable, as will be now pointed out.

On the second page of this petition, Petitioner has indicated:

> "It is the policy in our office to record all information regarding Office Actions and responses"
>
> ...
>
> "It is a policy of our office to print out and check all the entries due into our manual docket system for that day."

First, precisely how are both Office Actions and the required responses recorded? **Are they entered into a computer-based docketing software program?**

If Exhibit III is a screen-shot of a computer-based docketing system, this should be explicitly stated on the record.

Second, does the "manual daily docket sheet" pull information from this computer-based docketing software program?

Third, is the daily print out referred to in the second sentence of the indented text above distributed (either firm-wide or to the responsible attorneys/agents) on a daily basis?

Fourth, regarding the screen shot docketing system entry for this application that was included with this petition, it is clear that only "outstanding actions" have been provided. On renewed petition, **Petitioner should provide a screen shot with the "All Actions" tab selected.**

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

---

5 Exhibit 3.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[6] hand-delivery,[7] or facsimile.[8] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[9]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[10]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
8 (571) 273-8300- please note this is a central facsimile number.
9 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
10 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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ALEXANDRIA, VA 22313-1450
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Paper No.

HARNESS, DICKEY & PIERCE, P.L.C.
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RESTON VA 20195

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Horst Sauer et al.	:	
Application No. 10/474,872	:	DECISION ON RENEWED
Filed: May 11, 2004	:	PETITION PURSUANT TO
Attorney Docket No.: 32860-000650/US	:	37 C.F.R. § 1.181(A)
Title: METHOD FOR DETERMINING AND RECORDING SYSTEM INFORMATION AND FUNCTION IN DISTRIBUTED PARALLEL COMPONENT BASED SOFTWARE SYSTEMS	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed on May 27, 2009, requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 4, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 5, 2008. A notice of abandonment was mailed on November 18, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney

docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

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

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on February 24, 2009, where Petitioner stated that the communication of April 4, 2008 was not received at the correspondence address of record,[1] indicated that a search of the file jacket and the application contents indicates that the Office action was not received,[2] and provided a copy of the file

1 Original petition, pages 1 and 2.
2 Id. at 1.

jacket,[3] the master docket,[4] and the "docketing system entry" for this application.[5]

The original petition was dismissed via the mailing of a decision on March 27, 2009.

With this renewed petition, Petitioner has indicated that Office Actions and the required responses are recorded both on the face of the paper file and in a computer-based docketing software program,[6] which is used to generate the ""manual daily docket sheet,"[7] which is used by docketing personnel when coordinating "with the responsible attorneys/agents and their Administrative Professionals to ensure that due date entries docketed for that day are addressed."[8] Petitioner has also established that Exhibit III is a screen-shot of the computer-based docketing system,[9] and has included a screen shot docketing system entry with the "All Actions" tab selected.[10]

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the non-final Office action of April 4, 2008 was not received.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final Office action of April 4, 2008, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that Petitioner has submitted a $130 petition fee with both the original and this renewed petition. As neither of

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3 Exhibit 1.
4 Exhibit 2.
5 Exhibit 3.
6 Renewed petition, page 2.
7 Id. and page 5.
8 Id. at 5.
9 Id. at 4.
10 Exhibit 4, submitted with this renewed petition.

these two petitions carry a fee, these payments are unnecessary and will be credited to Petitioner's Deposit Account in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[11] 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

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

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THOMAS M. GALGANO
20 W. PARK AVENUE
SUITE 204
LONG BEACH NY 11561

COPY MAILED

OCT 2 7 2009

OFFICE OF PETITIONS

In re Patent No. 7,384,793 :
Issue Date: June 10, 2008 :
Application No. 10/474,877 : NOTICE
Filed: October 10, 2003 :
Attorney Docket No. 1708-6 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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In re Patent No. 6892988
Issue Date: May 17,2005
Application No. 10474879
Filed: April 14,2004
Attorney Docket No. 0561-1007

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

This is a decision on the electronic petition, filed August 6,2009 ,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 August 6,2009 . 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.

25 MAR 2004

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LADAS & PARRY
224 South Michigan Avenue, Suite 1200
Chicago, IL 60604

In re Application of :
DICKSON, Laurence *et al* :
Application No.: 10/474,885 :
PCT No.: PCT/AU02/00501 :
Int. Filing Date: 19 April 2002 : **DECISION**
Priority Date: 20 April 2001 :
Attorney Docket No.: CU-3403 :
For: METHOD AND APPARATUS FOR :
CARRYING OUT NON-DUSTRUCTIVE :
TESTING OF MATERIALS :

This is a decision on the declaration filed on 10 February 2004 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 19 February 2004, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) was required.

On 05 March 2004, applicants filed the instant response which was accompanied by, *inter alia*, a declaration signed by a joint inventor and the legal representative of a deceased joint inventor and the $130.00 surcharge fee.

DISCUSSION

Applicants have furnished a declaration signed by one of the two joint inventors and by Vivonne Thwaites as the legal representative of a deceased inventor, Suszanne Thwaites.

37 CFR 1.42 states, in part:

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

37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration. 37 CFR 1.497(b)(2) states that the citizenship, residence, and

mailing address of the legal representative must also be recorded on the declaration.

A review of the declaration submitted shows that citizenship, residence and mailing address information for the deceased inventor are listed. In addition, the citizenship of the legal representative is also recorded on the declaration.

However, the mailing address information was written on the declaration by the legal representative and the information is **not** legible. Therefore, the declaration does not comply with 37 CFR 1.497(b)(2).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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LADAS & PARRY
224 South Michigan Avenue, Suite 1200
Chicago, IL 60604

In re Application of :
DICKSON, Laurence *et al* :
Application No.: 10/474,885 :
PCT No.: PCT/AU02/00501 :
Int. Filing Date: 19 April 2002 : **DECISION**
Priority Date: 20 April 2001 :
Attorney Docket No.: CU-3403 :
For: METHOD AND APPARATUS FOR :
CARRYING OUT NON-DUSTRUCTIVE :
TESTING OF MATERIALS :

This is a decision on the "Submission of Corrected Application Data Sheet" filed on 26 April 2004 which has been treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 25 March 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). Applicants were given two months to respond.

On 01 September 2004, applicants filed the instant response which was accompanied by, *inter alia*, a "Corrected Application Data Sheet."

DISCUSSION

The declaration filed 05 March 2004 was not accepted under 37 CFR 1.42 because the mailing address information of the legal representative was handwritten and not legible.

In the papers filed 26 April 2004, applicants have furnished a "Corrected Application Data Sheet" which records the name, citizenship and residence of the executrix, Ms. Vivonne Thwaites.

This is not sufficient.

37 CFR 1.497(b)(2) requires that the mailing address of the legal representative must be recorded on the declaration. Accordingly, the declaration filed 05 March 2004 still does not meet the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

For the reason 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.

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

02 NOV 2005
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224 South Michigan Avenue, Suite 1200
Chicago, IL 60604

In re Application of :
DICKSON, Laurence *et al* :
Application No.: 10/474,885 :
PCT No.: PCT/AU02/00501 :
Int. Filing Date: 19 April 2002 : **DECISION**
Priority Date: 20 April 2001 :
Attorney Docket No.: CU-3403 :
For: METHOD AND APPARATUS FOR :
CARRYING OUT NON-DUSTRUCTIVE :
TESTING OF MATERIALS :

This is a decision on the "Response to Decision & Submission of Combined Declaration & Power of Attorney" filed 10 December 2004 which has been treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 26 October 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). Applicants were given two months to respond.

On 10 December 2004, applicants filed the subject response which was accompanied by, *inter alia*, an executed declaration.

DISCUSSION

In the prior decision dated 26 October 2004, it was noted that 37 CFR 1.497(b)(2) requires that the mailing address of the legal representative be recorded on the declaration. Applicant submitted only a corrected Application Data Sheet. Thus, a new declaration was required.

In the response filed 10 December 2004, applicants submitted a new declaration signed by Laurence Dickinson and Vivonne Thwaites as the legal representative of a deceased inventor, Suszanne Thwaites. The citizenship, residence, and mailing address of all inventors and the legal representative are recorded on this new declaration.

Accordingly, the declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 April 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 December 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.: (571) 272-3302

09 SEP 2004

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3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5109

In re Application of:
BAUGHN, Mariah, R., et al.
U.S. Application No.: 10/474,894
PCT No.: PCT/US02/11760
International Filing Date: 12 April 2002
Priority Date: 12 April 2001
Attorney's Docket No.: 043739-0300
For: TRANSPORTERS AND ION CHANNELS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a) Regarding Madhusudan Sanjanwala" filed 25 June 2004. Applicants have paid the required petition fee.

BACKGROUND

On 12 April 2002, applicants filed international application PCT/US02/11760 which claimed a priority date of 12 April 2001 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 October 2003.

On 10 October 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of $730 as the basic national fee.[1]

On 26 April 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 and additional claims fee were required.

On 23 April 2004, applicants filed a response to the Notification Of Missing Requirements. The response stated that, pursuant to the preliminary amendment filed with the original national stage papers, the claims had been amended so that no additional claims fees were required. The submission also included a declaration executed by all the joint inventors

[1] The proper basic national fee here, where applicants paid the international search fee to the USPTO but did not pay a preliminary examination fee to the USPTO, is $770. Pursuant to the authorization contained in the transmittal letter filed 10 October 2003, Deposit Account No. 09-0108 will be charged the $40 required to bring the basic national fee payment to the required total of $770.

except Madhusudan Sanjanwala, and the petition considered herein. The petition seeks acceptance of the application without the signature of the Madhusudan Sanjanwala, who applicants assert has refused to join in the application.

DISCUSSION

1. Petition Under 37 CFR 1.47(a):

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the 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 all the named inventors except Madhusudan Sanjanwala, with an unsigned signature block for Madhusudan Sanjanwala. This declaration can be accepted as having been signed by the inventors on their own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor has refused to execute the 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 firsthand and documentary evidence demonstrating that the nonsigning inventor has been provided with a copy of the complete application and, despite numerous requests for his signature, has failed to provide an executed declaration. 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.

2. Claims Fees

Applicant argues that the additional claims fees required by the Notification Of Missing Requirements are improper, asserting that the preliminary amendment filed on 10 October 2003 reduces the total number of claims to twenty. A review of the 10 October 2003 submission confirms the presence of the preliminary amendment. Based on this amendment, the requirement for $700 in additional claims fees set forth in the Notification Of Missing Requirements mailed 23 April 2004 is withdrawn.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) for acceptance of the application without the signature of Madhusudan Sanjanwala 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.

Deposit Account No. 09-0108 will be charged the $40 required to bring the basic national fee payment to the required total of $770.

The requirement for $700 in additional claims fees set forth in the Notification Of Missing Requirements mailed 23 April 2004 is WITHDRAWN.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 25 June 2004.

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

09 SEP 2004

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Madhusudan M. Sanjanwala
210 Silvia Court
Los Altos, California 94024

In re Application of: BAUGHN, Mariah, R., et al.
U.S. Application No.: 10/474,894
PCT No.: PCT/US02/11760
International Filing Date: 12 April 2002
Priority Date: 12 April 2001
Attorney's Docket No.: 043739-0300
For: TRANSPORTERS AND ION CHANNELS

Dear Mr. Sanjanwala:

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: (703) 308-6155
Facsimile: (703) 308-6459

Counsel Of Record:
Eve L. Frank
FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5109

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JOSEPH J LAKS
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON, NJ 08543-5312

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JUL 30 2008

OFFICE OF PETITIONS

In re Application of :
Ivonete Markman :
Application No.: 10/474,909 : ON PETITION
Filed: October 15, 2003 :
Attorney Docket No.: PU010070 :

This is a decision on the petition, filed July 29, 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 June 27, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2611 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.*

12 MAY 2006

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

In re Application of	: DECISION ON
HAMMER, Joel	:
Application No.: 10/474,921	:
PCT No.: PCT/SE02/00830	:
Int. Filing Date: 29 April 2002	: PETITION UNDER
Priority Date: 30 April 2001	:
Attorney Docket No.: 0104-0444P	:
For: A ONE-WAY VALVE	: 37 CFF 1.181

This is a decision on applicant's "RENEWED REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE" filed on 04 April 2006, which is being treated as a petition under 37 CFR 37 CFR 1.181 requesting that the PCT/IB/306 form was filed timely so that the executed declaration filed on November 7, 2003 was proper. Thus, the correct 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) date is November 7, 2003.

BACKGROUND

On 29 April 2002, applicant filed International Application No. PCT/SE02/00830, claims a priority date of 30 April 2001. A copy of the intentional application was transmitted on 07 November 2002 to the USPTO from the International Bureau.

On 15 October 2003, applicant filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee, but no executed declaration or oath was submitted as such time.

On 07 November 2003, applicant filed in the United States Patent and Trademark Office (PTO) an executed declaration and Notification of the Recording of a Change (PCT/IB/306)

On 04 March 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 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.

On 04 April 2006, applicant filed this petition indicating that the correct 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) date is November 7, 2003.

DISCUSSION

A review of the file shows that the "NOTIFICATION OF THE RECORDING OF A CHANGE" Form PCT/IB/306 was received on 07 November 2003 by the applicant with the executed declaration. The Notification indicates that applicant/inventor HAMMER, Joel had the following change and his name is HAAMER, Joel and this change was effected in accordance with PCT Rule 92*Bis*.

Accordingly, the declaration filed 07 November 2003 is accepted because applicant has provided a showing that the applicant/inventor name change was effected in accordance with PCT Rule 92*bis* prior to the filing of the present national stage application.

The Notification of Missing Requirements (PCT/DO/EO/905) mailed on 04 March 2004 was in error and is vacated. In addition, the Notice of Acceptance of Application Under 35 U.S.C. 371 (PCT/DO/EO/903) mailed on 22 April 2004 is vacated.

CONCLUSION

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

The Notice of Acceptance Under 35 U.S.C. 371 mailed 22 April 2004 is **VACATED**. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **07 November 2003.**

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

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APP 18 2006

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of	:
Zhaoyin Wang et al	:
Serial No.: 10/474.929	: PETITION DECISION
Filed: October 15, 2003	:
Attorney Docket No.: MC047YP	:

This is in response to the petition under 37 CFR 1.144, filed January 17, 2006, requesting withdrawal of an improper 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 October 15, 2003, and contained claims 1-36. In a first Office action, mailed July 5, 2005, the examiner set forth a Lack of Unity requirement, as follows:

Group I, claims 1-36, in part, drawn to products of Formula 1 where none of the 15 variables defined are heteroaryl or heterocycle and are not substituted by such, R^4 and R^5 do not form a ring, R^a and R^b do not form a ring, and R^i and R^j do not form a ring and Q is not tetrazolyl;

Group II, claims 1-36, in part, drawn to products of Formula 1 where none of the 15 variables defined are heteroaryl or heterocycle and are not substituted by such, R^4 and R^5 do not form a ring, R^a and R^b do not form a ring, and R^i and R^j do not form a ring and Q is not tetrazolyl except R^3 is defined as heteroaryl;

Group III, claims 1-36, in part, drawn to products of Formula 1 where none of the 15 variables defined are heteroaryl or heterocycle and are not substituted by such, R^4 and R^5 do not form a ring, R^a and R^b do not form a ring, and R^i and R^j do not form a ring and Q is not tetrazolyl except R^3 is defined as a different heteroaryl;

Group IV, claims 1-36, in part, drawn to products of Formula 1 where none of the 15 variables defined are heteroaryl or heterocycle and are not substituted by such, R^4 and R^5 do not form a ring, R^a and R^b do not form a ring, and R^i and R^j do not form a ring and Q is not tetrazolyl except Ar is defined as heteroaryl; and

Group V, claims 1-36 drawn to compounds not encompassed by the above Groups.

The examiner also required an election of species from whichever Group was elected. The examiner reasoned that Unity of Invention was lacking due to the many variables and lack of a significant structural element defining a special technical feature.

Applicants replied on August 8, 2005, electing, with traverse, Group I. Applicants argued that the claims all define pyrrolo- or pyrido-[1,2-a] indoles and that they have a common utility as antagonists and therefore, Unity of Invention is satisfied.

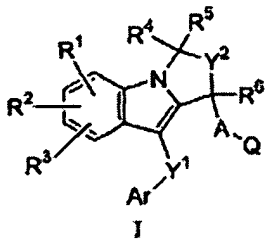
In the next Office action mailed to applicants on October 11, 2005, the examiner maintained the Lack of Unity requirement for the reasons previously set forth. The examiner then confirmed the scope of applicants' claims to be examined by defining the limitations on the variables' values. Claims 27 and 34 were rejected under 35 U.S.C. 112, first paragraph, as lacking written description and enablement and claims 32-33 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claim 27 was rejected for obvious double patenting over Cheng et al. All claims were objected to as containing non-elected subject matter.

Applicants replied on January 13, 2006, amending claims 1, 13, 16, 18-19, 21-24 and canceling claims 27 and 31-36 and responding to the rejections. Applicants also filed this petition of the restriction requirement concurrently.

Applicants have also filed a supplemental amendment on March 3, 2006, further amending some claims.

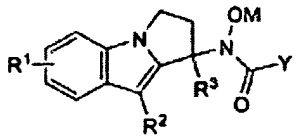
DISCUSSION

Applicants argue that the examiner has failed to properly follow PCT guidelines in determining Lack of Unity by failing to determine the proper significant structural element common to all compounds, or has misidentified it. A review of the claims shows that all compounds are based on Formula I, as shown:



I

The examiner has created four specific groups in which the variables are limited in their definition. Both the examiner and applicants recite the pertinent rules relating to determining what is a significant structural element. However, the examiner did not identify one single structure on which Unity could be based, but applicants have suggested a structure from a reference which is similar to, but distinct from, the claimed compounds, specifically:



From this it would appear at first blush that the fused pyrrolo-indole (or pyrido-indole) would constitute the basic invariant structure on which Unity could be based. However, the structure shown from US 5,128,364 shows this structure is well-known and does not support a finding of Unity. As a consequence one must add another group(s) to the base structure to find a structure which defines over the art and can support Unity. (In certain instances a well-known structure may be used as a basis for finding Unity, but the significant common structural element must be large or distinct, such as a flavone or a cholesterol.)

Attempting to determine a significant structural element on which Unity can be based, however, is difficult in view of applicants' claim construction in which most variables are defined, in part, by additional variables as, for example R^1, R^2 and R^3 are defined a H or R_g, and R_g is defined as one of 23 structures, many of which refer to further variables, such as R_a and R_b, etc. Determining the scope of applicants' claims is nearly impossibly difficult as is the determination of a structural element which supports Unity. In fact, US 5,128,364 discloses numerous variations (and suggests others) other than the hydroxamic substitution (shown above) of the pyrrolo-indole structure. The same is true for all of the other variables – there are so many possibilities that to try to base Unity on any single additional variable is impossible. Therefore, the examiner's' determination that Unity does not exist was proper.

In this instance the examiner chose to create Groups, noted above, which limited to some extent the number of variables in an attempt to find a common structural feature on which Unity could be based. In reality, this was not fully achieved, but the divisions set forth are reasonable and serve to advance prosecution in a manner consonant with Office policies and will not be disturbed. It is noted that Group V is a "catchall" group which is itself improper and should be properly defined in a future application. It is also noted that applicants have acquiesced with the examiner's request to cancel non-elected compounds from the claims. This effectively renders any further action on the petition moot

DECISION

The petition is **DENIED.**

The application will be forwarded to the examiner for consideration of applicants' responses of January 17, 2006, and March 3, 2006.

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.

George C. Elliott
Director, Technology Center 1600

17 JUN 2004

#5

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Patent Department
BAYER CROPSCIENCE LP
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741

In re Application of:
JESCHKE, Peter, et al.
U.S. Application No.: 10/474,934
PCT No.: PCT/EP02/04176
International Filing Date: 16 April 2002
Priority Date: 20 April 2001
Attorney's Docket No.: CS7965/LeA 35,074
For: NOVEL INSECTICIDAL AZOLES

DECISION ON SUBMISSION
UNDER 37 CFR 1.42

This communication is issued in response to applicants' submission on 03 May 2004 of a declaration executed on behalf of deceased inventor Christoph Erdelen by his heir Angelika Lubos-Erdelen, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 16 April 2002, applicants filed international application PCT/EP02/04176 which designated the United States and claimed a priority date of 20 April 2001. On 31 October 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., 20 October 2003.

On 15 October 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 08 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 03 May 2004, applicants filed a response to the Notification Of Missing Requirements. The response included payment of the required surcharge and an inventors' declaration executed by the eight surviving inventors and on behalf of deceased inventor Christoph Erdelen by his heir Angelika Lubos-Erdelen, considered herein under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 states in part:

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

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

> 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 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), the declaration must provide the citizenship, mailing address, and residence information for **both** the deceased inventor and the legal representative.

Here, the declaration filed 03 May 2004 specifically identifies Angelika Lubos-Erdelen as the "heir" of the deceased inventor, and it includes separate citizenship, mailing address, and residence information for the deceased inventor and the heir. The accompanying submission expressly states that Angelika Lubos-Erdelen is the "sole heir" of the deceased inventor. Accordingly, the declaration complies with the requirements of 37 CFR 1.42 and 1.497(b)(2) with respect to the signature provided on behalf of the deceased inventor.

It is noted that the submission of a declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect, applicant is required to promptly notify this Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 with respect to deceased inventor Christoph Erdelen 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 03 May 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/474,941	04/08/2004	Mashio Shibuya	SON-2596	3632

7590 04/30/2009

Rader Fishman & Grauer
Suite 501
1233 20th Street NW
Washington, DC 20036

EXAMINER	
MAPLES, JOHN S	
ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
04/30/2009	PAPER

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

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

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mbc

APR 30 2009

In re application of	Shibuya et al.	:DECISION ON
Serial no.	10/474,941	:PETITION
Filed:	April 8, 2004	:
For:	NONAQUEOUS ELECTROLYTE	:
BATTERY		:

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 TO REQUEST WITHDRAWAL OF OBJECTION TO AMENDED SPECIFICATION mailed March 27, 2009.

Applicant filed an amendment on June 16, 2008 amending the specification at pp. 14-15, pp. 18-19, and pp. 19-20. The examiner objected to the language under 35 USC 132 as introducing new matter. Applicant petitions from this objection.

DECISION:

MPEP 2163.02 states:
The test for sufficiency of support [...] is whether the disclosure of the application relied upon "reasonably conveys to the artisan that the inventor had possession at that time of the [...] subject matter." Ralston Purina Co. v. Far-Mar-Co., Inc., *772 F.2d 1570, 1575, 227 USPQ 177, 179 (Fed. Cir. 1985) (quoting* In re Kaslow, *707 F.2d 1366, 1375, 217 USPQ 1089, 1096 (Fed. Cir.1983)).*

Applicant argues that the amendment to the specification merely clarifies the translation. The amendment clarifies the meaning of the terms "D10", "D50", "D90", "DL10", etc. The language originally present reasonably conveys that the inventor had possession of concept that was more clearly expressed by the amendment of June 16, 2008.

The petition is **GRANTED**.

Gregory Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Ronald P. Kananen and Christopher M. Tobin
RADER, FISHMAN & GRAUER PLLC
1233 20th Street N.W., Suite 501
Washington, DC 20036

28 MAY 2004
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Richard E. L. Henderson
Bayer Crop Science LP
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741

In re Application of	:	
Peter Jeschke et al	:	
Application No.: 10/474,947	:	
PCT Application No.: PCT/EP02/03976	:	DECISION ON
International Filing Date: 10 April 2002	:	
Priority Date: 20 April 2001	:	PETITION UNDER
Attorney Docket No.: CS7944/LeA35073	:	
For: NOVEL AZOLES HAVING INSECTICIDAL ACTION	:	37 CFR 1.42

This is in response to applicants' papers filed on 19 April 2004.

BACKGROUND

On 10 April 2002, applicant filed international application number PCT/EP02/03976 which claimed priority to an earlier filed German application filed on 20 April 2001.

On 09 April 2004, the United States Patent and Trademark Office issued a Notice of Missing Parts, requiring a new Oath or Declaration of all inventors, in compliance with 37 CFR 1.497 (a) and (b), identifying the application by the International application number and international filing date.

On 19 April 2004, applicants submitted a response to the notice of missing parts along with combined Declaration and Power of Attorney enclosed with a Formalities Letter and a Deed of Inheritance.

On 19 April 2004, applicants provided a translation of a deed of inheritance between Dr. Christoph Erdelen and his wife Angelika Lubos Erdelen executed by Wolfgang Mettlach, Notary public.

DISCUSSION

The application and papers have been reviewed and have not been found to be in compliance with 37 CFR 1.42. The declaration submitted 19 April 2004, is not acceptable in that it is a composite declaration executed by the surviving inventors and the signature page of another

declaration executed by Mrs. Angelika Lubos Erdelen. A complete copy of the declaration executed by Mrs. Angelika Lubos Erdelen is required.

Mrs. Angelika Lubos Erdelen is being treated as the sole heir of the deceased inventor in view of counsel's statements. This submission is being construed as an indication that there is no legal representative and that none is required to be appointed. If this statement is incorrect a declaration signed by the legal representative is required.

CONCLUSION

The petition to permit filing under 37 CFR 1.42 is DIMISSED.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.42." No petition fee is due. Extensions of time are available under 37 CFR 1.136(a).

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

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

02 SEP 2004
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#5

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Richard E.L. Henderson
Bayer Crop Science, LP
Patent Department
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of :
JESCHKE, et al. : DECISION ON PETITION
Serial No.: 10/47,947 :
PCT No.: PCT/EP02/03976 : UNDER 37 CFR 1.42
Int. Filing Date: 10 April 2002 :
Priority Date: 20 April 2001 :
Atty Docket No.: CS7944/LeA35073 :
For: NOVEL AZOLES HAVING :
INSECTICIDAL ACTION :

This decision is in response to the applicant's "SECOND RENEWED PETITION UNDER 1.42" filed 26 July 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 May 2004, applicant was mailed a decision refusing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 26 July 2004, applicant filed the present response accompanied by a new combined declaration and power of attorney.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

Applicant's original request for status under 37 CFR 1.42 was dismissed as the filed declaration was compiled from more than one declaration. Applicant has presently provided an executed declaration and power of attorney identifying Mrs. Angelika Lubos Erdelen as the sole heir to the estate of the deceased joint inventor, Christoph Erdelen. The filed declaration has been executed by all of the other joint inventors as well. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 10 April 2002 and a date of **26 July 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

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MORRISON & FOERSTER LLP
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MCLEAN, VA 22102

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APR 12 2007

OFFICE OF PETITIONS

In re Patent No. 6,984,249 :
Issue Date: January 10, 2006 :
Application No. 10/474,954 : ON PETITION
Filed: May 6, 2004 :
Attorney Docket No. 246472005900 :

This is a decision on the petition filed April 17, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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#3

Eric J. Franklin
SWIDLER BERLIN SHEREFF FRIEDMAN. LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007-5116

In re Application of	:	
Lars LILJESTRAND, et al.	:	
Application No.: 10/474,961	:	DECISION ON
PCT No.: PCT/SE02/00034	:	PETITION
Int. Filing Date: 10 January 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 11 January 2001	:	
Attorney Docket No.: 19387.0073	:	
For: AN ELECTRIC DEVICE, A CURRENT LIMITER AND AN ELECTRIC POWER NETWORK	:	

The petition to revive under 37 CFR 1.137(b) filed 16 October 2003 in the above-captioned application is hereby **GRANTED** as follows:

On 10 January 2002, applicants filed international application PCT/SE02/00034, which claimed priority of an earlier Swedish application filed 11 January 2001. The application became abandoned as to the national stage in the United States because the basic national fee was not paid to the USPTO prior to the 30 months statutory time period, which expired at midnight on 11 July 2003.

On 16 October 2003, applicants filed the present petition, requesting revival of the international application under the provisions of 37 CFR 1.137(b) along with the appropriate petition fee as required by 37 CFR 1.17(m) for a small entity.

A review of the application papers filed 16 October 2003 reveals that all of the requirements of 37 CFR 1.137(b) for revival have been submitted. 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 declaration of the inventors filed with the petition reveals that it is in compliance with 37 CFR 1.497. Since the declaration of the inventors was obviously submitted after 30 months from the priority date claimed of 11 January 2001, a $130.00

surcharge (fee code 1617) for filing an oath or declaration after 30 months, will be charged to Counsel's Deposit Account No. 19-5127, as authorized in the Transmittal Letter accompanying this petition.

Applicants' claim for priority is acknowledged. The application has an international filing date of **10 January 2002** under 35 U.S.C. 363 and a date of **16 October 2003** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for further processing, including a) the charging of $130.00 (fee code 1617) to Deposit Account No. 19-512, and b) the issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and preparation and mailing of a filing receipt.

Richard Cole
PCT Legal Examiner
PCT Legal Office

NNH/RC:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

05 MAY 2004

#4

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:	
MEDERSKI et al.	:	
Application No.: 10/474,969	:	DECISION ON
PCT No.: PCT/EP02/02963	:	
Int. Filing Date: 18 March 2002	:	PETITION UNDER
Priority Date: 10 April 2001	:	
Attorney Docket No.: MERCK-2788	:	37 CFR 1.137(b)
For: OXALIC ACID DERIVATIVES	:	

This decision is in response to applicants' submission filed 16 October 2003.

BACKGROUND

On 18 March 2002, applicant filed international application PCT/EP02/02963, which designated the U.S. and claimed a priority date of 10 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 October 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 October 2003.

On 16 October 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; a declaration of inventors; and a "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR § 1.137(b)".

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 16 October 2003.

As to item (2), applicant submitted the petition fee on 16 October 2003.

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

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

The declaration of inventors filed 16 October 2003 is in compliance with 37 CFR 1.497(a)-(b). The surcharge of $130 under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has been charged to Deposit Account 13-3402.

CONCLUSION

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

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

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

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

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MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.,
SUITE 1150
IRVINE CA 92612

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OFFICE OF PETITIONS

In re Application of	:	
Eui Hyeok Yang	:	DECISION ON PETITION TO
Application Number: 10/474978	:	WITHDRAW HOLDING OF
Filing Date: 03/26/2004	:	ABANDONMENT
Attorney Docket Number:	:	
CITPAU14US	:	

This is a decision on the petition filed on November 21, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on February 23, 2007, which set a three-(3) month statutory period for reply. Notice of Abandonment was mailed on November 15, 2007.

Petitioners assert that the Notice mailed on February 23, 2007, was never received. In support, petitioners' registered patent practitioner has provided a copy of both his mail log and docket report, showing that the Notice was not received.

In the absence of any irregularity in the mailing of the Notice of Allowance and Fee(s) Due (Notice), there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received

and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice may have been lost after receipt rather than a conclusion that the Notice was lost in the mail.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Receipt of the issue and publication fees paid on November 23, 2007, is acknowledged. As the fees have been paid, it is not necessary to remail the Notice mailed on February 23, 2007

The petition is **GRANTED.**

The application is referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ARLINGTON VA 22201-2909

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OFFICE OF PETITIONS

In re Application of	:	
Whyte, William	:	
Application No. 10/474,980	:	ON PETITION
Filed: October 16, 2003	:	
Attorney Docket No. 20070458	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 2432 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: STEPHEN J. KONTOS
RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, MI 48304

10 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Ryan W. Massey
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of	:	
Moore et al.	:	
Application No. 10/474,986	:	DECISION ON
PCT No.: PCT/US02/10519	:	
Int. Filing Date: 03 April 2002	:	PETITION UNDER
Priority Date: 06 April 2001	:	
Atty. Docket No.: 0275Y-457USB	:	37 CFR 1.137(b)
For: Metal Cutting Circular Saw	:	
With Integral Sight Window	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 16 October 2003.

BACKGROUND

This international application was filed on 03 April 2002, claimed an earliest priority date of 06 April 2001, 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 06 October 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

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

Regarding requirement (1), the 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**.

The $130.00 surcharge under 37 CFR 1.492(e) is being charged to counsel's Deposit Account No. 02-2548, as authorized by the Transmittal Letter filed on 16 October 2003.

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 **16 October 2003**.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/475,005	01/06/2004	Sigekazu Kawai	PSYF-01206 US	8326

21254 7590 07/23/2008

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER	
YACOB, SISAY	
ART UNIT	**PAPER NUMBER**
2612	

MAIL DATE	DELIVERY MODE
07/23/2008	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080702

DATE : July 02, 2008

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 7,336,202

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /jeff hofsass/ Art Unit 2612

29 SEP 2004

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Laura A. Corruzi
Pennie & Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

In re Application of	:	
Conn et al.	:	
Application No.: 10/475,026	:	NOTICE OF
PCT No.: PCT/US02/11758	:	
Int. Filing Date: 11 April 2002	:	DEFECTIVE
Priority Date: 11 April 2001	:	
Attorney Docket No.: 10589-008	:	RESPONSE
For: Methods For Identifying Small Molecules	:	
That Bind Specific RNA Structural Motifs	:	

This is a decision on applicants' "Response To Notification of Missing Requirements..."filed on 27 May 2004.

BACKGROUND

This international application was filed on 11 April 2002, claimed an earliest priority date of 11 April 2001, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 11 October 2003. Applicants filed, *inter alia*, the basic national fee on 10 October 2003.

On 27 February 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of, *inter alia,* an executed oath or declaration of the inventors.

DISCUSSION

Inspection of the declaration of the inventors filed on 27 May 2004 reveals that it enumerates and is signed by several inventors whose names do not appear in the published international application. Specifically, the names which do not appear in the published international application are Michael Morgan Conn, Mathew Pelligrini, Seongwoo Hwang and Young-Choon Moon. The declaration cannot be accepted at this time because it names a different inventive entity from that which was nominated in the published international application. Counsel is required to either file a new declaration naming the correct inventive entity, or provide a sufficient basis for acceptance of the declaration filed on 27 May 2004 (e.g., proof that the missing names were added to the international application pursuant to PCT Rule 92bis, or a showing pursuant to 37 CFR 1.497(d)).

CONCLUSION

The declaration filed on 27 May 2004 is **NOT ACCEPTED**.

Applicants are required to respond within **ONE (1) MONTH** from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely reply will

result in **ABANDONMENT** of the international application with respect to the national stage in the United States.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked 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: (571) 272-3283
Fax: (571) 273-0459

10 NOV 2004

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#2

Laura A. Corruzi
Pennie & Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

In re Application of	:	
Conn et al.	:	
Application No.: 10/475,026	:	NOTICE OF
PCT No.: PCT/US02/11758	:	
Int. Filing Date: 11 April 2002	:	DEFECTIVE
Priority Date: 11 April 2001	:	
Attorney Docket No.: 10589-008	:	RESPONSE
For: Methods For Identifying Small Molecules	:	
That Bind Specific RNA Structural Motifs	:	

This is a decision on applicants' "Response To Notice of Defective Response"filed on 27 October 2004.

DISCUSSION

Counsel requests "that the above-identified application be amended to name the correct inventors," and has provided certain documents "in accordance with 37 C.F.R. § 1.497(d)," so as to render the executed declaration of the inventors filed on 27 May 2004 acceptable. 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 provide appropriate statements signed by each of the inventors (Michael Morgan Conn, Young-Choon Moon, Seongwoo Hwang and Matthew Pellegrini) sought to be added as inventors, attesting that the error in inventorship occurred without deceptive intent.

Regarding requirement (2), the instant "Response..." includes explicit authorization to charge the processing fee to counsel's Deposit Account.

Regarding requirement (3), the instant "Response..." is accompanied by a "Written Consent of Assignee" signed by Mark E. Boulding in his capacity of "S.V.P., Bus. Dev. + Legal," who explicitly asserts that he "is authorized to act on behalf of the assignee." Under 37 CFR 3.73(b), an assignee must establish ownership prior to taking action. "Ownership is established by submitting to the Office... documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office." In this regard, the consent letter alludes to "a copy of the assignment is attached and was submitted for recordation on June 25, 2004." However, upon inspection of the application file, no copy of such an assignment is found to be present. Moreover, a

search of the USPTO assignment database reveals no evidence of such an assignment. In the absence of appropriate evidence under 37 CFR 3.73(b), it would not be appropriate to conclude that requirement (3) has been satisfied.

CONCLUSION

The declaration of the inventors is **NOT ACCEPTED**, without prejudice.

Counsel's Deposit Account No. 50-3013 is being charged in the amount of $130.00 for the processing fee, as authorized by the instant "Response..."

Applicants are required to respond within **TWO (2) MONTHS** from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely reply will result in **ABANDONMENT** of the international application with respect to the national stage in the United States.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, 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
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
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11 JAN 2005

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Laura A. Corruzi
Pennie & Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

In re Application of	:	
Conn et al.	:	
Application No.: 10/475,026	:	
PCT No.: PCT/US02/11758	:	
Int. Filing Date: 11 April 2002	:	DECISION
Priority Date: 11 April 2001	:	
Attorney Docket No.: 10589-008	:	
For: Methods For Identifying Small Molecules	:	
That Bind Specific RNA Structural Motifs	:	

This is a decision on applicants' "Response To Notice of Defective Response" filed on 29 November 2004.

DISCUSSION

In a decision mailed on 10 November 2004, in response to a submission filed on 27 October 2004, the declaration filed on 27 May 2004 was not accepted under 37 CFR 1.497(d) because

> Regarding requirement (3), the instant "Response..." is accompanied by a "Written Consent of Assignee" signed by Mark E. Boulding in his capacity of "S.V.P., Bus. Dev. + Legal," who explicitly asserts that he "is authorized to act on behalf of the assignee." Under 37 CFR 3.73(b), an assignee must establish ownership prior to taking action. "Ownership is established by submitting to the Office... documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office." In this regard, the consent letter alludes to "a copy of the assignment is attached and was submitted for recordation on June 25, 2004." However, upon inspection of the application file, no copy of such an assignment is found to be present. Moreover, a search of the USPTO assignment database reveals no evidence of such an assignment. In the absence of appropriate evidence under 37 CFR 3.73(b), it would not be appropriate to conclude that requirement (3) has been satisfied.

The instant submission includes a copy of an assignment document executed in favor of PTC Therapeutics, Inc. by Matthew Pelligrini, Seongwoo Hwang, Young-Choon Moon and Neil Almstead, the inventors named in the declaration filed on 27 May 2004. This

assignment document constitutes adequate evidence under 37 CFR 3.73(b). As all of the requirements for relief under 37 CFR 1.497(d) have now been satisfied, the declaration filed on 27 May 2004 is being accepted.

CONCLUSION

The declaration of the inventors filed on 27 May 2004 is **ACCEPTED**.

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

20 FEB 2004

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Squire, Sanders & Dempsey LLP
8000 Towers Crescent Drive
14th Floor
Tysons Corner, VA 22182-2700

In re Application of NIEMINEN et al	:	
U.S. Application No.: 10/475,028	:	
PCT Application No.: PCT/IB02/02168	:	DECISION
Int. Filing Date: 10 April 2002	:	
Priority Date Claimed: 10 April 2001	:	
Attorney Docket No.: 59643.00332	:	
For: PROVIDING SERVICES TO GROUPS OF SUBSCRIBERS	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.182 to Accord Filing Date" filed 14 October 2003.

BACKGROUND

On 10 April 2002, applicant filed international application PCT/IB02/02168, which claimed priority of an earlier United Kingdom application filed 10 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 24 October 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 10 October 2003.

On 14 October 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that applicant's representative attempted to deposit that national stage papers at the USPTO Customer Service Window after 5:00 p.m. on 10 October 2003 but discovered that the Customer Service Window was closed (see affidavit of Nasruddin Rini).

Due to a fire at the USPTO, 10 October 2003 has been designated a federal holiday within the District of Columbia for purposes of 35 U.S.C. 21. Because the next succeeding business day was 14 October 2003, applicant's national stage papers are considered to be timely filed.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

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OFFICE OF PETITIONS

WILMER CUTLER PICKERING HALE AND DORR LLP
399 PARK AVENUE
NEW YORK NY 10022

In re Application of :

HASKIN, Abraham :
Application No. 10/475,029 : DECISION ON PETITION
Filed: April 16, 2004 : TO WITHDRAW
Attorney Docket No. **113522.121** : 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 14, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, inability to contact the applicant and his apparent closure, does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ABRAHAM HASKIN**
PARATEC LTD.
P.O. BOX 3574, 9 HATAASIA ST.
INDUSTRIAL ZONE TEL HANAN, NESHER
HAIFA, ISRAEL 31034

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NEW YORK NY 10022

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of :

HASKIN, Abraham :
Application No. 10/475,029 : DECISION ON PETITION
Filed: April 16, 2004 : TO WITHDRAW
Attorney Docket No. **113522.121** : 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 13, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on August 09, 2007.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ABRAHAM HASKIN**
PARATEC LTD.
P.O. BOX 3574
9 HATAASIA ST.
INDUSTRIAL ZONE TEL HANAN, NESHER
HAIFA 31034
ISRAEL

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OFFICE OF PETITIONS

In re Application of

HASKIN, Abraham
Application No. 10/475,029
Filed: April 16, 2004
Attorney Docket No. **113522.121**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 08, 2008.

The request is **APPROVED**.

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

The request was signed by Jane Love on behalf of all attorneys of record who are associated with customer No. 28089. All attorneys/agents associated with the Customer Number 28089 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 Abraham Haskin at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ABRAHAM HASKIN**
PARATEC LTD.
P.O. BOX 3574, 9 HATAASIA ST.
INDUSTRIAL ZONE TEL HANAN, NESHER
HAIFA, 31034
ISRAEL

05 APR 2004

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David R. J. Stiennon
Stiennon & Stiennon
612 West Main Street, Suite 201
P.O. Box 1667
Madison, WI 53701-1667

In re Application of :
BERGMAN :
Application No.: 10/475,052 : DECISION ON PETITION
PCT No.: PCT/FI02/00324 :
Int. Filing Date: 18 April 2002 :
Priority Date: 20 April 2001 :
Attorney Docket No.: TURPAT-16 :
For: METHOD AND SYSTEM IN CONTROL OF COATING COLOUR RECIPE

This decision is in response to applicant's "Notification Re Previous Submission of Missing Requirements" which is being treated as a petition under 37 CFR 1.181(a). No petition fee is required.

BACKGROUND

On 18 April 2002, applicant filed international application PCT/FI02/00324 which claimed a priority date of 20 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 31 October 2002. A Demand was filed for International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 20 October 2003.

On 17 October 2003, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 11 March 2004, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 29 March 2004, applicant filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) filed 01 March 2004; post card receipt dated 01 March 2004; and a copy of a check in the amount of $130.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 01 March 2004. A review of the present application reveals that the declaration and power of attorney filed 01 March 2004 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, application number; and attorney docket number. The receipt itemizes declarations executed by the joint-inventors. The receipt is stamped "Rec'd. PCT/PTO 01 MAR 2004" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 01 March 2004.

CONCLUSION

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

This application will be given an international filing date of 18 April 2002 and a date of **01 March 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.

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

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Paper No.

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

JUL 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,476,688	:	DECISION ON REQUEST
Suzuki et al.	:	FOR
Issue Date: January 13, 2009	:	RECONSIDERATION OF
Application No. 10/475,060	:	PATENT TERM ADJUSTMENT
Filed: June 11, 2004	:	and
Atty Docket No. 2003946-0065	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 12, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-eight (528) days.

Patentee requests entry of a period of Office delay of 60 days pursuant to 37 CFR 1.703(a)(6) for Office delay in issuing the patent more than four months after the issue fee was paid on July 14, 2008 and all outstanding requirements were met.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand forty-nine (1049)** days.

A review of the record confirms that patentee is correct that entry of a period of adjustment of 60 days is warranted. All outstanding requirements were met with the payment of the issue fee on July 14, 2008. However, the patent did not issue until January 13, 2009, four months and 60 days later.

Moreover, patentee does not note that an additional period of adjustment is warranted for the Office taking in excess of three years to issue the patent. The patent issued on January 13, 2009, three years and 847 days after the national stage

commenced in this international application on September 19, 2003. The "A" delays of 78 days, 164 days and 60 days overlap with the "B" delay. Considering the overlap, the patent term adjustment is properly increased by 545 days for "B" delay and 60 days for "A" delay to 1049 days.

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand forty-nine **(1049)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,476,688 B2

DATED **January 13, 2009** **DRAFT**

INVENTOR(S) : Suzuki et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 468 days

Delete the phrase "by 468 days" and insert – by 1049 days--

02 JUL 2004

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Susan C. Hill
MOTOROLA, Inc.
7700 W. Parmer Lane
MD: PL02
Austin, Texas 78729

In re Application of	:	
David J. HUSAK	:	
Application No.:10/475,066	:	
PCT Application No.: PCT/US02/11509	:	DECISION ON
International Filing Date: 11 April 2002	:	
Priority Date: 13 April 2001	:	PETITION
Attorney Docket No.: SC10986TS	:	
For: MANIPULATING DATA STREAMS IN DATA STREAM PROCESSORS	:	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 United States Patent and Trademark Office on 17 October 2003 is **GRANTED**.

BACKGROUND

On 11 April 2002, applicant filed international application PCT/US02/11509. The international application claims a priority date of 13 April 2001 and designates the United States. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 24 October 2002. The deadline for payment of the basic national fee for the United States National Stage was thirty months from the priority date, that is 14 October 2003 (13 October 2003 was a U.S. holiday). Applicant missed this deadline.

On 17 October 2003, applicant filed the instant petition for revival accompanied by, *inter alia*, payment of the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the petition fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by a proper reply, a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, the petition fee required by law, and a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The statement in the applicant's petition that "[t]he 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 satisfies the requirements 37 CFR 1.137(b)(1). Payment of the petition fee satisfies 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notice of Missing Requirements (PCT/DO/EO/905) indicating that a signed 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

Jimmy G. Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
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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

BIB DATA SHEET

CONFIRMATION NO. 3111

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/475,069	04/30/2004 RULE	435	1632	DAV1225.001APC

APPLICANTS

John Michael Daly, Western Australia, AUSTRALIA;

**** CONTINUING DATA ***************************

This application is a 371 of PCT/AU02/00485 04/18/2002

**** FOREIGN APPLICATIONS ***************************

AUSTRALIA PR 4467 04/18/2001

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **

Foreign Priority claimed	☑ Yes ☐ No	☐ Met after Allowance	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119(a-d) conditions met	☑ Yes ☐ No		AUSTRALIA	4	93	2
Verified and Acknowledged	/MARCIA STEPHENS NOBLE/ Examiner's Signature	Initials				

ADDRESS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614
UNITED STATES

TITLE

Transgenic non-human animals for pharmacological and toxicological studies

FILING FEE RECEIVED		
1327	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 15, 2010

TO SPE OF : ART UNIT 1632 - ~~SPE Peter Para, Jr.~~ SPE Peter Paras, Jr.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/475,069 Patent No.: 7,544,854 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the change in the claim 16 be approved? The applicant is requesting to add text to the printed claim. See COCIN dated 04-06-2010

_____
Certificates of Correction Branch
(571)272-0483

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 RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit 1632

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 15, 2010

TO SPE OF : ART UNIT 1632 - ~~SPE Peter Para, Jr.~~ SPE Peter Paras, Jr.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/475,069 Patent No.: 7,544,854 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the change in the claim 16 be approved? The applicant is requesting to add text to the printed claim. See COCIN dated 04-06-2010

_____
Certificates of Correction Branch
(571)272-0483

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 RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Pete Ramsey Art Unit 1632

04 MAY 2005

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST Street, Suite A-1
Gainesville, FL 32606-6669

In re Application of :
BEJANIN, Stephane et al :
U.S. Application No.: 10/475,075 :
PCT No.: PCT/IB01/00914 :
Int. Filing Date: 18 April 2001 :
Priority Date: None : **DECISION**
Attorney Docket No.: G-081US03PCT :
For: FULL LENGTH HUMAN CdnaS :
ENCODING POTENTIALLY :
SECRETED PROTEINS :

This decision is in response to applicants' "Petition Under 37 C.F.R. 1.47(a)" filed with the United States Designated/Elected Office (DO/EO/US) on 25 October 2004.

BACKGROUND

On 26 April 2004, the 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 respond with extensions of time available.

On 25 October 2004, applicants filed the subject petition which was accompanied by, *inter alia*, the petition fee; a four-month extension request and fee; the surcharge fee; a declaration signed by four of the five joint inventors; copies; a declaration of Simone Platel; a copy of an email dated 24 June 2004; a copy of a letter dated 24 June 2004; a copy of two TNT delivery receipts; and a copy of a letter dated 17 September 2004.

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 inventor 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 37 CFR 1.47(a) applicant has provided the last

known address of Mr. Edwards in the Supplemental Application Data Sheet as:

8, rue Grégoire de Tours
Paris, France

Regarding item (4), the 37 CFR 1.47(a) applicant provided a declaration signed by four of the five joint inventors for the nonsigning joint inventor pursuant to section 409.03(a) of the Manual of Patent Examining Procedure (MPEP).

Accordingly, items (1), (3), (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that the nonsigning inventor "appears to be uncooperative" because Mr. Edwards has not responded to communications regarding the above-captioned application.

Petitioner included a declaration by Simone Platel who explains that an email was sent to Mr. Edwards on 24 June 2004 "requesting confirmation of his address of c/o Helios Bio-Sciences, 24 rue du Fg. St. Jacques, 75014 Paris, France." Ms. Platel states that "[a] response was not received." Nevertheless, letters containing a declaration and assignment for the above-captioned application were sent to Mr. Edwards at Helios Bio-Sciences on 24 June 2004 and 17 September 2004. No response to either letter has been received.

This evidence does not meet the requirements of item (2) of 37 CFR 1.47(a).

Applicants' burden in showing that an inventor refuses to cooperate, or cannot be located is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

> 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 . . .

> 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 . . .
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

Here, there is no proof that the nonsigning inventor received the documents mailed 24 June 2004 and 17 September 2004, as such, there can be no refusal. Mr. Edwards did not sign for the letters or reply to the email sent on 24 June 2004. In addition, petitioner has not tried to contact Mr. Edwards directly using the telephone to verify receipt of the documents. Petitioner also did not send any of the documents to the home address of Mr. Edwards listed in the Supplemental Application Data Sheet.

For these reasons, item (2) of 37 CFR 1.47(a) 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.: (571) 272-3302

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

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of:	:	
Forriere et al.	:	
Application No. 10/475,086	:	DECISION REFUSING
Filed: November 4, 2005	:	STATUS UNDER
Attorney Docket No.:	:	37 CFR 1.47(a)
244231US2PCT	:	

This is in response to a Petition under 37 C.F.R. §1.47(a), (with attachments i-xv) Declaration Under 37 C.F.R. §1.67, Declaration Under 37 C.F.R. §1.132, Certification Under 37 [CFR] §3.73(b), filed November 23, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed as inappropriate**.

The above-identified application was filed on filed November 4, 2005, with a fully executed oath or declaration, executed by inventors Barbara Forriere and Stephanie Marchal.

Applicant files the instant petition and Supplemental Declaration, Power of Attorney and Assignment executed by inventor Stephanie Marchal only. Applicant provides that inventor Barbara Forriere could not be located to sign the power of attorney, after diligent efforts. As such, Applicant is petitioning, under Rule 47(a), to file a Supplemental Declaration, under Rule 67(a), and submitting Power of Attorney and Petition.

Applicant is advised that a petition under 37 CFR 1.47 is filed when a joint inventor "refuses to sign or cannot be reached". Here, both inventors have executed the Declaration, as such, a petition under 37 CFR 1.47 is inappropriate.

Applicant is further advised that "[t]he ownership of the patent (or the application for the patent) initially vests in the named inventors of the invention of the patent." See *Beech Aircraft*

Corp. v. EDO Corp., 990 F.2d 1237, 1248, 26 USPQ2d 1572, 1582 (Fed. Cir. 1993). An Applicant may file and prosecute his or her own case. See 37 CFR 1.31. This Office exercises no authority over an Applicant's decision to appoint a representative to prosecute a patent application.

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. MPEP 409.03(d). See, MPEP 106.

Moreover, on petition, and upon a showing of an extraordinary situation where justice requires, the Office will waive the requirements of 37 CFR 1.32(b)(4), the result of is that more than one attorney, agent, applicant, or owner will be allowed to prosecute the application at the same time. See, MPEP 402.10.

Conclusion

No provision exists in this Office whereby the rights of the inventor to appoint a representative to prosecute an application may be circumvented.

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

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

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

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

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#6 #7

22 SEP 2004

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Norman F. Oblon
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MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314

In re Application of	:	
Ales HALAMA et al.	:	
US Application No.: 10/475,099	:	DECISION ON
PCT Application No.: PCT/CZ2002/000024	:	
Int. Filing Date: 25 April 2002	:	PETITION
Priority Date: 26 April 2001	:	
Attorney Docket No.: 242830US0PCT	:	UNDER 37 CFR 1.181
For: METHOD FOR OBTAINING PIOGLITAZONE AS AN ANTIDIABETIC	:	

This is a decision on the papers applicant filed on 19 March 2004, requesting withdrawal of the Notification of Missing Requirements mailed on 27 February 2004. These papers are being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 25 April 2002, applicant filed international application PCT/CZ2002/000024, which designated the United States and claimed a priority date of 26 May 2001.

Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 26 November 2003.

On 27 October 2003, applicants filed national stage papers for this international application which included the requisite basic national fee of $ 920.00.

On 27 February 2004, a Form PCT/DO/EO/905 (NOTIFICAITON OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) was mailed to applicant. This form required the submission of an Oath or Declaration of the inventors and a nucleotide and/or amino acid sequence listing in compliance with 37 CFR 1.821-1.825.

Applicants filed the instant petition on 19 March 2004.

DISCUSSION

In the 19 March 2004 petition, applicant states that a declaration under PCT Rule 4.17(IV) was filed in this international application. A copy of this DECLARATION: INVENTORSHIP(only for the purposes of the designation of the United States of America) is included with the petition. It is noted that the published international application refers to this declaration under PCT Rule 4.17(iv). It is clear that a declaration of inventorship was filed in this international application and the declaration included in the petition is accepted as fulfilling the requirements of 35 U.S.C. 371(c)(4). The requirement for an Oath or declaration of the inventors in the Notice of Missing Requirements was clearly made in error.

The Notice of Missing Requirements also required a nucleotide and/or amino acid sequence listing in compliance with 37 CFR 1.821-1.825. Applicant states in the petition that "this application contains no amino acid or nucleotide sequences." A careful review of the description and claims of this application supports this statement. It is clear that the sequence listing requirement in the Notice of Missing Requirements was made in error.

DECISION

The petition is **GRANTED**.

The FormPCT/DO/EO/905 (NOTIFICAITON OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)) is hereby **VACATED**.

The 35 U.S.C. 371(c)(1), (2) and (4) date for this application is **27 October 2003.**

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including the preparation and mailing of a Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (703) 308-6459

10 MAR 2004

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#7

Nixon & Vanderhye
1100 N. Glebe Road
8th Floor
Arlington, Virginia 22201-4714

In re Application of:	:	
Auton, Kevin, et al.	:	DECISION
U.S. Application No.: 10/475,113	:	
PCT No.: PCT/GB02/01749	:	
International Filing Date: 16 April 2002	:	
Priority Date: 17 April 2001	:	
Attorney's Docket No.: 2491-33	:	
For: ELECTROPHORETIC SEPARATION SYSTEM	:	

This decision is issued in response to the "Request" filed by applicants on 04 February 2004 under application number 60/511,694, and resubmitted by facsimile on 27 February 2004.

Applicants' submission requested that the National Stage application filed for international application PCT/GB02/01749 be accorded a non-provisional application number. The submission was directed to application number 60/511,694, the provisional application number which applicant believed had been assigned to the present national stage application (applicants' belief was based on the return postcard which itemized the national stage filing herein and which was returned to applicants with a USPTO receipt stamp that incorrectly included the 60/511,694 application number).

A review of the present application file confirms that, notwithstanding the return postcard, the national stage materials for PCT/GB02/01749 were properly assigned a non-provisional application number (10/475,113) and processed accordingly, with a "Notification Of Acceptance Of Application Under 35 U.S.C. 371 And 37 CFR 1.495" (Form PCT/DO/EO/903) having issued on 04 March 2004. Accordingly, applicants' present "Request" is **MOOT**.

The 04 February 2004 and 27 February 2004 submissions have been placed in the instant application file. Any further correspondence with respect to the U.S. national stage of PCT/GB02/01749 should be directed to this U.S. application number, 10/475,113.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
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OFFICE OF PETITIONS

HUGH MCTAVISH
MCTAVISH PATENT FIRM
429 BIRCHWOOD COURTS
BIRCHWOOD MN 55110

MAILED

FEB 22 2010

OFFICE OF PETITIONS

In re Application of	:	
O'Brien, et al.	:	
Application No. 10/475,117	:	DECISION ON PETITION
Filed: October 17, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 110.018US2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 3, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to non-provisional application No. 09/965,738 set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Reference to Prior Nonprovisional Applications. Here, the amendment as drafted includes the phrase "through PCT/US02/11734". As such the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i), and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Supervisor
Office of Petitions

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BIRCHWOOD MN 55110

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
O'Brien, et al.	:	CORRECTED
Application No. 10/475,117	:	DECISION ON PETITION
Filed: October 17, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 110.018US2	:	

This is a corrected decision on the petition under 37 CFR 1.78(a)(3), filed November 3, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to non-provisional application No. 09/965,738 set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. 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 1642 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the non-provisional application set forth in the Amendment, filed November 3, 2009.

Anthony Knight
Supervisor
Office of Petitions

Enc: corrected Filing Receipt (3 pages)

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/475,117	10/17/2003	1642	800	110.018US2	35	8

CONFIRMATION NO. 3162

CORRECTED FILING RECEIPT

66981
HUGH MCTAVISH
MCTAVISH PATENT FIRM
429 BIRCHWOOD COURTS
BIRCHWOOD, MN 55110

Date Mailed: 03/25/2010

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

Applicant(s)

Timothy O'Brien, Little Rock, AR;
John Beard, Little Rock, AR;
Lowell Underwood, Fayetteville, AR;

Power of Attorney:
Kathleen Terry--31884
Hugh McTavish--48341

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/US02/11734 04/12/2002
and is a CIP of 09/965,738 09/27/2001 PAT 7,309,760
which claims benefit of 60/284,175 04/17/2001
and claims benefit of 60/299,380 06/19/2001
and said PCT/US02/11734 04/12/2002
claims benefit of 60/284,175 04/17/2001
and claims benefit of 60/299,380 06/19/2001
and claims benefit of 60/345,180 12/21/2001
This application 10/475,117
claims benefit of 60/427,045 11/15/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/475,117**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

CA125 gene and its use for diagnostic and therapeutic interventions

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).

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MAY 27 2008

OFFICE OF PETITIONS

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET NW SUITE 501
WASHINGTON DC 20036

In re Application of :
Fukase, et al. :
Application No. 10/475,133 : ON PETITION
Filed: October 17, 2003 :
Attorney Docket No. SAE-0017 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 10, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file an Appeal Brief after a Notice of Appeal had been filed on January 9, 2007. The Office had previously mailed a non-final Office action on August 9, 2006. In reply, applicants filed a Notice of Appeal, together with a Pre-Appeal Brief Request for Review (the Notice of Appeal was proper as the claims had been twice rejected). Thereafter, applicants filed an amendment on January 24, 2007. On February 24, 2007, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review. The Notice stated that the Pre-Appeal Brief Request for Review was improper, as applicants filed an amendment after the filing of the request. As such, a conference would not be held, and the period for reply continued to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received. As no Appeal Brief was filed thereafter, the application became abandoned on March 10, 2007.

Petitioner cites the Office's attention to MPEP 710.04, which states:

> There sometimes arises a situation where two different periods for reply are running against an application, the one limited by the regular statutory period, the other by the limited period set in a subsequent Office action. The running of the first period is not suspended nor affected by an ex parte limited time action or even by an appeal therefrom.

In view thereof, the filing of the amendment on January 24, 2007 was a proper reply to the non-final Office action mailed August 9, 2006. As a three month extension of time would have been needed to make the Amendment timely, $525 has been charged to Deposit Account No. 18-0013, as authorized in the Amendment.

The matter is being forwarded to Group Art Unit 1639 for consideration of the Amendment filed January 24, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Osha Liang L.L.P.
1221 McKinney Street
Suite 2800
Houston, TX 77010

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Youssef Wakil et al. :
Application No. 10/475,153 : DECISION ON PETITION
Filed: October 15, 2003 : TO WITHDRAW
Attorney Docket No. 29750.19.02 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 26, 2007.

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

A review of the file record indicates that the power of attorney to Osha Liang L.L.P. has been revoked by the assignee of the patent application on May 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Alder & Associates**
8011 Candle Lane
Houston, TX 77071

20 SEP 2004

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Knoble Yoshida and Dunleavy LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd
Philadelphia, PA 19103

In re Application of :
BABOWICZ, Stanley et al. :
Application No.: 10/475,160 :
PCT No.: PCT/US02/11915 : DECISION ON
Int. Filing Date: 16 April 2002 :
Priority Date: 16 April 2001 : PETITION UNDER
Attorney Docket No.: SUNX-0010US :
For: APPARATUS AND METHOD FOR AUTHENTICATION OF COMPUTER-READABLE MEDIUM : 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 20 August 2004.

BACKGROUND

On 16 April 2002, applicants filed international application PCT/US02/11915, claiming a priority date of 16 April 2001. The deadline for paying the basic national fee in the United States expired at midnight on 16 October 2003.

On 15 October 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 29 March 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) and the surcharge for late furnishing of the oath or declaration were required.

On 20 August 2004, applicants submitted the instant petition accompanied by a declaration and the fee for a three month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign 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), (2), (3) and (4) have been satisfied. The fee under 37 CFR 1.17(h) has been paid. Applicants have supplied evidence that the non-signing inventor was presented with a complete copy of the application papers and has not returned a signed declaration. Applicants state that the last known address of inventor Stanley Babowicz is 668 N. 44th Street, Suite 248; Phoenix, AZ 85008. The declaration submitted 20 August 2004 complies with 37 CFR 1.47(a) and 37 CFR 1.497(a)-(b).

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 **20 August 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

30 SEP 2004

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Stanley Babowicz
668 N. 44th Street, Suite 248
Phoenix, AZ 85008

In re Application of
BABOWICZ, Stanley et al.
Application No.: 10/475,160
PCT No.: PCT/US02/11915
Int. Filing Date: 16 April 2002
Priority Date: 16 April 2001
Attorney Docket No.: SUNX-0010US
For: APPARATUS AND METHOD FOR AUTHENTICATION OF COMPUTER-READABLE MEDIUM

Dear Mr. Babowicz:

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

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

Knoble Yoshida and Dunleavy LLC
Eight Penn Center, Suite 1350
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Philadelphia, PA 19103

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Patent of Siversson	:	DECISION ON REQUEST
Patent No. 7,555,704	:	FOR RECONSIDERATION OF
Issue Date: June 30, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/475,169	:	AND NOTICE OF INTENT TO
Filing Date: April 23, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. SIVERSSON1	:	CORRECTION

This is a decision on the petition filed on August 31, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the patent is extended or adjusted by seven hundred ninety-seven days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred ninety-seven days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on October 18, 2006, and ended on November 25, 2007, *the day before* the RCE was filed, and is 404 (not 405) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 796 days, not 797 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **seven hundred ninety-six (796)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,555,704 B2
ISSUE DATE	:	June 30, 2009
INVENTOR(S)	:	Siversson

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 476 days.

Delete the phrase "by 476 days" and insert - by 796 days--

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/475,175	05/25/2004	Robert F. Casper	30694/41147	5383

7590 02/20/2009

Nabeela R. McMillian
MARSHALL, GERSTEIN & BORUN LLP
Sears Tower, Suite 6300
233 S. Wacker Drive
Chicago, IL 60606-6357

EXAMINER	
CHONG, YONG SOO	

ART UNIT	PAPER NUMBER
1617	

MAIL DATE	DELIVERY MODE
02/20/2009	PAPER

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

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

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FEB 2 0 2009

William K. Merkel
MARSHALL, GERSTEIN & BORUN LLP
Sears Tower, Suite 6300
233 S. Wacker Drive
Chicago IL 60606-6357

In re Application of	:
Casper et al	:Decision on Petition
Serial No.: 10/475,175	:
Filed : 25 May 2004	:
Attorney Docket No.: 30694/41147	:

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.499 filed on 12 January 2009 requesting reconsideration of the lack of unity requirement mailed 28 April 2008.

BACKGROUND

This application was filed as a national stage of a PCT application and as such is entitled to PCT unity of invention rules.

On 21 September 2007, the examiner issued a first Office action on the merits in which all pending claims, (claims 1-13, 25, 38, 51, 52 and 58-60) were rejected under 35 U.S.C 102(e) as being anticipated by Palmer et al (US Patent Number 6,953,774) and under 35 U.S.C 103(a) as being unpatentable over Palmer et al in view of a second reference teaching exemestane. Palmer is cited for teaching methods comprising administering aromatase inhibitors such as letrozole, vorozole and anastrozole along with follicle stimulating hormone to induce ovulation in females suffering from infertility.

On 21 March 2008, applicants filed a response to the Office action along with an amendment which cancelled claims 1-13, 25, 38, and 58-60, amended claims 51-52 and added new claims 61-82.

On 28 April 2008, the examiner set forth a lack of unity requirement which divided the pending claims into ten groups, directed to products (groups I-II) and processes (Groups III-X). Group I, claim 51 is drawn to a pharmaceutical composition comprising an aromatase inhibitor. Group II, claim 52, is drawn to a pharmaceutical composition comprising an aromatase inhibitor and a follicle stimulating hormone. Groups III, IV, V and VI are directed to processes of administering specific aromatase inhibitors of letrozole, anastrozole, vorozole and exemestane, respectively. Groups VII, VIII, IX and X parallel Groups IV-VII in that they are directed to the same processes with the additional limitations of administering a follicle stimulating hormone. The examiner reasoned that Groups I-X share a common feature (aromatase inhibitors) that is well known in the prior art, citing two patents.

On 21 May 2008, applicants elected Group IV with traverse, arguing that the cited prior art is directed to use of aromatase inhibitors as contraceptives to inhibit fertility, which the claimed invention is use of aromatase inhibitor in female infertility treatments.

On 11 September 2008, the examiner considered the traversal and made the lack of unity determination FINAL. Claims 51-52, 72, 76-79 were withdrawn from consideration as being directed to non-elected inventions. Claims 61-69, 70 (in part), 71, 73, 74, 75 (in part) and 80-82 were examined as follows:

> Claims 61-69, 70 (in part), 71, 73, 74, 75 (in part) and 80-82 were provisionally rejected under obviousness-type double patenting.
> Claims 63 and 74 were rejected under 35 U.S.C. 112 1st paragraph for new matter
> Claims 61-69, 70 (in part), 71, 73, 74, 75 (in part) and 80-82 were rejected under 35 USC 102(e) as being anticipated by Palmer et al (US Patent Number 6,953,774)

On 12 January 2009, applicants filed a response to the Office action and this petition.

DISCUSSION

The file history and petition have been considered carefully.

The lack of unity determination has been considered with respect to the claims as currently pending.

Because no claims are pending to the product inventions (Groups I and II) or for methods of using exemestane, (Groups VI and X), the lack of unity determination for Groups I, II VI and X will not be addressed in this petition decision. This petition decision will only address the lack of unity determination directed to the currently pending claims amongst Groups III-V and VII-IX.

Concerning that lack of unity requirement made between elected Group IV and VIII, it is noted that Group VIII encompasses all of Group IV along with an additional limitation of administering a follicle stimulating hormone.

Group IV, claims 61-69, 70 (in part), 71, 73-74, 75 (in part), 80-82 are drawn to a method of inducing ovulation in a female suffering from anovulatory infertility by administering the aromatase inhibitor, anastrozole.

Group VIII, claims 72-73, 76-78, 79 (in part) are drawn to a method of treating infertility in a female by administering the aromatase inhibitor, anastrozole, and a follicle stimulating hormone.

The PCT International Search and Examination Guidelines provides Example 15 directed to two claims, in which one claim requires all the limitations of a second claim plus a additional required limitation. This example, set forth below, is comparable to the formats for Group IV and VIII.

10.35 *Example 15*

Claim 1: Compound A.

Claim 2: An insecticide composition comprising compound A and a carrier.

Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

In Example 15, unity of invention exists between the subcombination of claim 1 and the combination of claim 2. Fr this reason, the lack of unity between the subcombination of Groups III-V and the combination of Groups VII-IX is improper.

Concerning the lack of unity determination made amongst Groups III-V, Independent claim 61 and dependent claim 75 are set forth below.

61. (Currently amended) A method of inducing ovulation in a female suffering from anovulatory infertility which comprises administering to said female at least one triazole derivative aromatase inhibitor in a dosage amount of from about 0.01 mg/kg/day to about 10 mg/kg/day.

75. (Currently amended) The method of claim 73, wherein the triazole derivative aromatase inhibitor is

(a) letrozole administered in a daily dose of from about 2.5 mg to about 5.0 mg,

(b) anastrozole administered in a daily dose of from about 1 mg to about 2 mg, or

(c) vorozole administered in a daily dose of from about 2 mg to about 4 mg, ~~or~~

~~(d) exemestane administered in a daily dose of about 25 mg to 50 mg.~~

Pages 8-29 of the specification provides lengthy lists of aromatase inhibitor compounds and their chemical structures. The placement of claim 61 into four groups limited to four particular aromatase inhibitors result in an apparent loss of scope encompassed by generic claim 61. The Office does not have authority to limit the scope of inventions as described in the restriction groupings to less than that encompassed by the claims.

The various aromatase inhibitors of Claim 75 are recited in the alternative of a Markush group. In order to require a lack of unity determination amongst members of a Markush Group, the examiner would need to follow the guidance in ISPE Guidelines, paragraph 10.17. This was not done.

Moreover, a review of the prosecution history shows that the examiner applied prior art of Palmer teaching the aromatase inhibitor of vorozole, letrozole and anastrozole in the first Office action on the merits. Moreover, Palmer is cited for teaching methods comprising administering follicle stimulating hormone to induce ovulation in females suffering from infertility. The teachings of Palmer et al would seem to apply equally to all of Groups III-V and VII-IX.

ISPE Guidelines provides the following cautions concerning lack of unity determinations:

> 10.04 Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor persisted in on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search or, in accordance with Article 33(6), by any additional document considered to be relevant. If the common matter of the independent claims is well known and the remaining subject matter of each claim differs from that of the others without there being any unifying novel inventive concept common to all, then clearly there is lack of unity of invention. If, on the other hand, there is a single general inventive concept that appears novel and involves inventive step, then objection of lack of unity does not arise. For determining the action to be taken by the examiner between these two extremes, rigid rules cannot be given and each case is considered on its merits, the benefit of any doubt being given to the applicant.

In this particular case, because the examiner has already examined on the merits all the features amongst which the present inventions are grouped, the benefit of any doubt as to the unity of invention should be given to applicants.

For all these reasons, the lack of unity determination made amongst Groups III, IV, V, VII, VIII and IX is improper.

DECISION

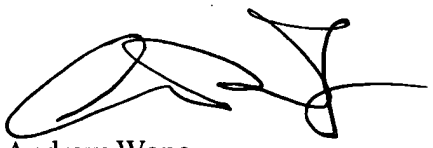
The petition filed under 37 CFR 1.144 and 1.499 on 12 January 2009 is **GRANTED**.

The lack of unity determination between Groups III, IV, V, VII, VIII and IX has been withdrawn.

The Office action mailed 12 September 2008 is vacated as incomplete.

The application will be forwarded to the examiner to consider the papers filed 12 January 2009 and to prepare a new Office action on the pending claims consistent with this petition decision. That action can only be made final if it properly fits within the criteria for making an action final in view of applicants amendments to the claims.

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.



Andrew Wang
(Acting) Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Andrews, et al. :
Application No. 10/475,191 : ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. CL1650 USPCT :
For: HIGH RESOLUTION LASERABLE FOR LASER INDUCED THERMAL IMAGE TRANSFER

This is a decision on the petition under 37 CFR 1.137(b), filed on December 2, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the May 26, 2004 non-final Office action which set an extendable three (3) month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on August 27, 2004. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted an amendment in reply to the May 26, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 26, 2004 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 1700's technical support staff for entry of the amendment filed on December 2, 2004.

[1] Pursuant to petitioners' authorization, deposit account no. 04-1928 will be charged the required $1,370.00 petition fee.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

23 FEB 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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07278
DARBY & DARBY
P.O. Box 5257
New York, NY 10150-5257

In re Application of :
MANDEVILLE *et al* :
U.S. Application No.: 10/475,195 :
PCT No.: PCT/CA02/00569 :
Int. Filing Date: 19 April 2002 : **DECISION**
Priority Date: 19 April 2001 :
Attorney Docket No.: 06670/0200151-US0 :
For: METHODS FOR GENERATING :
LIBRARIES OF THERAPEUTIC :
BACTERIOPHAGES . . . :

Applicants' "Request for Corrected Filing Receipt and Notice of Acceptance" filed via facsimile on 07 February 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 14 July 2004 recorded the date of completion of 35 U.S.C. 371 requirements as 17 October 2003.

A review of the subject application shows that a declaration in compliance with 37 CFR 1.497(a) and (b) was not provided until 09 February 2004.

Accordingly, the Form PCT/DO/EO/903 filing receipt mailed 14 July 2004 contain erroneous information and are both **VACATED**.

This application is being forwarded to the national stage division of the USPTO for further processing in accordance with this decision.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Joseph S Tripoli
Thomson Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
VAN DEN HERIK, BEN :
Application No. 10/475,205 : DECISION ON PETITION
Filed: 10/17/2003 :
Attorney Docket No. PD010017 :

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

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 5, 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 June 6, 2007. A Notice of Abandonment was mailed on October 18, 2007.

37 CFR 1.33(b) states in pertinent part:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application **must be signed by**:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) An assignee as provided for under § 3.71(b) of this chapter;[1] or

[1] Pursuant to 37 CFR 3.71, a single assignee of the entire right, title and interest in the application or all partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application may prosecute an application. An assignee becomes of record by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Sammy S. Henig signed the present petition; however, there is no indication in the USPTO's records that Henig is an attorney or agent registered to practice before the USPTO. It appears that the inventor assigned his rights in the subject matter of the invention to Thomas Licensing, Inc. However, petitioners have not submitted a Statement under 37 CFR 3.73(b), showing that Henig has authority to sign on behalf of the assignee. The Office will not presume by the filing of the present petition that Henig is a proper party pursuant to 37 CFR 1.33. Accordingly, the petition is improperly signed.

The petition under 37 CFR 1.137(b) is **dismissed**. The Office will not render a decision on this matter and the application will remain abandoned, until a "renewed" petition under 37 CFR 1.137(b) is filed and signed by a person(s) having authority to prosecute the application in compliance with 37 CFR 1.33.

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

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Thomson Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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OFFICE OF PETITIONS

In re Application of :
BEN VAN DEN HERIK :
Application No. 10/475,205 : DECISION ON PETITION
Filed: 10/17/2003 :
Attorney Docket No. PD010017 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 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, March 5, 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 June 6, 2007.

On November 20, 2007, petitioner submitted a petition under 37 CFR 1.137(b), the petition fee, a reply, and a statement of unintentional delay. The petition was dismissed by the decision of January 25, 2008, because it was not apparent if Sammy S. Henig, the person signing the petition was a registered patent attorney or agent acting in a representative capacity under the provisions of 37 CFR 1.34(a). On February 8, 2008, petitioner filed the present petition and identified Mr. Henig as a registered patent attorney and including his registration number.

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

It is not apparent if Mr. Henig,[1] the person who signed the statement of unintentional delay, was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at

[1] "When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall

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 Mr. Henig was ever given a power of attorney to prosecute the application. If Mr. Henig 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) 272-3211.

This application is being referred to Technology Center AU 2622 for appropriate action by the Examiner in the normal course of business on the reply received on November 20, 2007.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

---

constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts." 37 CFR 1.34

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Jonathan Y. Kang
Lee Hong Degerman Kang & Schmadeka
14th Floor
801 S. Figueroa Street
Los Angeles, CA 90017

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OFFICE OF PETITIONS

In re Patent No. 6,854,947

Issue Date: February 15, 2005

Application No. 10/475,209

Filed: October 17, 2003

Attorney Docket No. **2008-3-23**

ON PETITION

This is a decision on the petition filed March 8, 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 request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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BARBARA C SIEGELL
E I DU PONT DE NEMOURS & COMPANY
LEGAL PATENTS
WILMINGTON DE 19898

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OFFICE OF PETITIONS

In re Application of	:	
Robert J. Bouchard et al.	:	
Application No. 10/475,212	:	DECISION ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. CL1866 US PCT	:	

This is a decision on the petition, filed June 25, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of December 12, 2007, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before March 13, 2008.

Petitioner states that a timely reply was submitted by facsimile on April 11, 2008. Petitioner has submitted copies of the previously mailed correspondence and return receipt confirmation of the facsimile transmission, which would have rendered the reply timely if received.

The petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of December 12, 2007 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on April 11, 2008.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 1796 for appropriate action in the normal course of business on the reply received with petition.

Thurman K. Page
Petitions Examiner
Office of Petitions

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NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of	:
Arno Lange et al	:
Serial No.: 10/475,214	: PETITION DECISION
Filed: October 20, 2003	:
Attorney Docket No.: PF 52416	:

This is in response to the petition under 37 CFR 1.181, filed February 21, 2007, requesting withdrawal of the Final rejection.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on June 6, 2006, in which claims 5-7 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-7 were rejected under 35 U.S.C. 103(a) as unpatentable over Otto in view of Reichardt and claims 1 and 8 were rejected under 35 U.S.C. 103(a) as unpatentable over Otto in view of Reichardt further in view of Sato et al.

Applicants replied on December 5, 2006, canceling claim 4 and amending claims 1, 5-7 and adding claims 9-10. The rejection of record were also addressed appropriately.

The examiner mailed a Final Office action to applicants on February 8, 2007, in which all previous rejections were withdrawn and a new rejection made. Claims 1-3 and 5-10 were now rejected under 35 U.S.C. 103(a) as unpatentable over Otto in view of Sterlitamaxky et al. The examiner stated that applicants' amendments necessitated the new ground of rejection.

Applicants filed this petition on February 21, 2007, requesting withdrawal of the Final Office action and mailing of a non-Final Office action. No response to the Office action has been made at the time of mailing of this decision.

DISCUSSION

Applicants' petition requests withdrawal of the Finality of the Office action mailed February 8, 2007. Applicants state that in response to the first Office action they amended claim 1 by incorporating the limitations of claim 4 into claim 1 and that this should not have necessitated the application of a new reference for rejecting the claims. Applicants' statement is partially correct.

Some of the limitations of claim 4 were incorporated into claim 1. Original claim 4 was directed to identifying specific extraction agents such as methanol, ethanol, propanol, isopropanol, acetone and butanone and mixtures thereof alone or with water. Amended claim 1 identifies the extraction agents as methanol, ethanol and mixtures thereof. Thus the number and type of extraction agents was significantly reduced.

The examiner's first Office action applied the Otto reference which teaches the process claimed and uses butyl alcohols as the extraction agent. This was sufficiently similar to the range of extraction agents claimed that the rejection was considered proper. However, with the significant narrowing of the extractions agents, the rejection was considered insufficient without additional support. That support was found in the Sterlitamaxky reference which specifically teaches using methanol as an extracting agent. There is nothing in applicants' specification which would reasonably have led an examiner to foresee applicants' narrowing of the extraction agent limitation in response to a first rejection where a reference encompassed at least some of the extraction agents and suggested others.

DECISION

The petition is **DENIED.**

Applicants' remain under obligation to reply to the Final Office action mailed February 8, 2007, in an acceptable manner.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

John Lebuyader
for Director TC 1600

Bruce M. Kisliuk
Director, Technology Center 1600

26 FEB 2004
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#3

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Walter Ottesen
Patent Attorney
PO Box 4026
Gaithersburg, Maryland 20885-4026

In re Application of:
BLUMENSTOCK, et al.
Application No.: 10/475,224
PCT No.: PCT/DE02/01233
Int. Filing: 04 April 2002
Priority Date: 18 April 2001
Attorney Docket No.: R40445
For: METHOD FOR OPERATING AN INTERNAL COMBUSTION ENGINE, ESPECIALLY THAT OF A MOTOR VEHICLE

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a response to applicants' "Petition Under 37 CFR 1.47(a)" filed 12 December 2003 to accept the application without the signature of joint inventor, Andreas Blumenstock.

BACKGROUND

On 04 April 2002, applicants filed international application PCT/DE02/01233 which claimed a priority date of 18 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 October 2002. A Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 October 2003 (18 October 2003 was a Saturday).

On 20 October 2003, applicants filed a transmittal 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, and a declaration executed by one of the two inventors (Klaus Reis-Mueller), but not by the remaining inventor, Andreas Blumenstock.

On 12 December 2003, applicants filed the present petition under 37 CFR 1.47(a), seeking acceptance of the application without the signature of Andreas Blumenstock.

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, 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, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> 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. Such a petition will be dismissed as inappropriate.
>
> 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.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

A review of the present petition reveals that applicants have not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Andreas Blumenstock. Petitioner states that Andreas Blumenstock "is unable to join the application as he has taken an excused one year leave of absence . . . and has no access to a mail facility where he can receive and send mail." However, the declaration of Gunnar Lochmahr states that "the unavailable inventor is not expected to return until March 1, 2004." Since Mr. Blumenstock is expected to return 01 March 2004, the nonsigning inventor cannot be considered unavailable. As stated above, the fact that a non signing inventor is on vacation or temporarily unavailable is not an acceptable reason for filing under 37 CFR 1.47.

For the above reasons, it would not be appropriate to accept this application without the signature of Andreas Blumenstock at this time.

CONCLUSION

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

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 Missing Requirements (Form PCT/DO/EO/905) requiring submission of a fully executed declaration in compliance with 37 CFR 1.497.

Richard M. Ross
Attorney-Advisor
Office PCT Legal Administration
Tel.: 703-308-6155
Facsimile: 703-308-6459

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
PATENT OPERATIONS
CN 5312
PRINCETON, NJ 08543-0028

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OFFICE OF PETITIONS

In re Application of :
Michael Senge et al :
Application No. 10/475,253 : ON PETITION
Filed: October 16, 2003 :
Attorney Docket No. BTSPH0101100 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 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 April 21, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2006.

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

This matter is being referred to Technology Center AU 2629 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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30 BIDEFORD ROAD, #07-01, THONGSIA BUILDING
SINGAPORE, 229922
SINGAPORE **AIRMAIL**

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OFFICE OF PETITIONS

In re Application of :
Ah Lim Chua :
Application No. 10/475,267 : ON PETITION
Filed: October 20, 2003 :
Attorney Docket No. 1169.P008US/TDD :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed August 11, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 14, 2005.

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

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

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

03 NOV 2004

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

In re Application of KOH et al	:	
U.S. Application No.: 10/475,268	:	
PCT Application No.: PCT/JP02/01785	:	DECISION
Int. Filing Date: 27 February 2002	:	
Priority Date Claimed: 19 April 2001	:	
Attorney Docket No.: 244205US2PCT	:	
For: DRY ETCHING METHOD	:	

This is in response to the petition under 37 CFR 1.182 filed 18 October 2004.

BACKGROUND

On 27 February 2002, applicant filed international application PCT/JP02/01785, which claimed priority of an earlier Japan application filed 19 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 31 October 2002. The thirty-month period for paying the basic national fee in the United States expired on 20 October 2003 (19 October 2003 was a Sunday).

On 20 October 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 22 March 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 01 April 2004, applicant filed an executed declaration.

On 18 June 2004, this Office mailed a communication which identified a discrepancy with respect to the first inventor's name.

On 18 October 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The given name of the first inventor listed on the declaration is "Akiteru", while the given name of the first inventor listed on the international application is "Meiki". The present petition is accompanied by the requisite petition fee of $130.00 as well as statements from those having knowledge of the error. These statements set forth the specific 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 27 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 01 April 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

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TIMOTHY J. ABERLE
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OFFICE OF PETITIONS

In re Application of	:	
Reiner SCHNEIDER, et al	:	
Application No. 10/475,275	:	DECISION ON PETITION
Filed: October 20, 2003	:	
Attorney Docket No. P2001.0428	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before December 5, 2007. As required by the Notice of Allowance and Fee(s) Due, mailed September 5, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1540; and (3) and the required statement of unintentional delay.

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

The application is being referred to the Office of Patent Publication.

April Wise
Petitions Examiner
Office of Petitions

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ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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OFFICE OF PETITIONS

In re Application of	:	
Radmila Mileusnic et al	:	
Application No. 10/475,281	:	DECISION GRANTING PETITION
Filed: October 16, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3578-120 CI1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 4, 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 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed ADS.

/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

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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

COPY MAILED

JUN 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Mileusnic et al.	:	
Application No. 10/475,281	:	ON PETITION
Filed: October 16, 2003	:	
Attorney Docket No. 3578-120 CI1	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed April 23, 2009, to accept an unintentionally delayed correction of a claim under 35 U.S.C. §§ 120 for the benefit of prior-filed nonprovisional Application No. 09/998,481, filed November 30, 2001, as set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **DISMISSED AS MOOT**.

The instant petition wishes to correct the relationship between PCT/GB02/01769 and 09/998,481 from "continuation" to "continuation-in-part." As stated in MPEP 201.11(V), a petition under 37 CFR 1.78(a)(3) and the surcharge would not be required for correcting a timely submitted benefit claim for the following situations:

(A) Changing the relationship of the applications (e.g., changing from "continuation" or "divisional" to "continuation-in-part" or from "continuation-in-part" to "continuation" or "divisional");

(B) Changing the filing date of a prior-filed nonprovisional or provisional application; and

(C) Changing a benefit claim of a prior-filed provisional application under 35 U.S.C. 120 (e.g., "This application is a continuation of prior-filed provisional application No. ---") to a benefit claim of the same provisional application under 35 U.S.C. 119(e) (e.g., "This application claims the benefit of prior-filed provisional application No. ---") during the pendency of the later-filed application. Note, however: If the later-filed application has issued as a patent, the correction cannot be made by a certificate of correction and would not be effective in a reissue application because the term of a patent is measured from the prior application's filing date and removing the benefit claim under 35 U.S.C. 120, 121, or 365(c) would have the effect of lengthening the term of the patent.

Since the correction petitioner wishes to make falls under (A) listed above, the petition is unnecessary and is hereby dismissed as moot. A

In view of the above, the $1410.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account as authorized.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1654 for appropriate action on the Request for Continued Examination (RCE) filed March 30, 2009 and the ADS filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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ABELMAN, FRAYNE & SCHWAB
150 East 42nd Street
New York, NY 10017-5612

In re Application of :
MASDHHOUR, Mazen M. :
U.S. Application No.: 10/475,285 :
PCT No.: PCT/US02/12443 :
Int. Filing Date: 18 April 2002 : **DECISION**
Priority Date: 18 April 2001 :
Attorney Docket No.: 206,301 :
For: FLARE STACK COMBUSTION :
APPARATUS AND METHOD :

This is a decision on applicant's "Submission of Missing Requirements and Request for Waiver of Extension Fee" ("Pet.") filed 28 May 2004. This is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 15 March 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) and (b) and a $130.00 surcharge fee must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 28 May 2004, applicant filed the instant petition which was accompanied by, *inter alia*, an executed declaration and the $130.00 surcharge fee.

DISCUSSION

In the instant petition, applicant claims that the "Notification of Missing Requirements . . . was not received via mail in the ordinary course." Pet. at ¶ 1. Applicant states that they did not receive the Form PCT/DO/EO/905 until a copy was sent by the PCT Help Desk via facsimile on 18 May 2004 "after the two-month deadline had already passed." Id. at ¶ 2. Applicant requests that the this response "be deemed timely and that the official fee for a one-month extension be waived." Id. at ¶ 3.

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring 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 nonreceived Office communication would have been entered had it been received and

docketed must be attached to and referenced in practitioners' statement.[1]

In this case, applicant has not made the required statements or provided the requisite docket records required to establish nonreceipt of an Office action.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The one-month extension fee of $110.00 has been charged to Deposit Account No. 01-0035 as authorized.

If reconsideration on the merits of this petition and a refund of the $110.00 extension fee is desired, a proper response establishing nonreceipt of the Form PCT/DO/EO/905 mailed 15 March 2004 must be filed within **TWO (2) MONTHS** from the mail date of this decision.

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

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 April 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 May 2004. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645

---

[1] Section 711.03(c) of the Manual of Patent Examining Procedure (MPEP) discusses the showing required to establish nonreceipt of an Office action and states that "a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action."

25 FEB 2004

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Lowe Hauptman Gilman & Berner LLP
1700 Diagonal Rd, Suite 300
Alexandria, VA 22314

In re Application of
GUNASEKERA, Darren Aster
Application No.: 10/475,290
PCT No.: PCT/IB02/01022
Int. Filing Date: 02 April 2002
Priority Date: 02 April 2001
Docket No.: 3148-014
For: ACOUSTIC TILE AND ITS USE IN VEHICLE SOUND PROOFING

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 20 October 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

27 DEC 2004

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

In re Application of	:	
SAINI, Selwayan et al.	:	
Application No.: 10/475,310	:	DECISION ON
PCT No.: PCT/GB02/01853	:	
Int. Filing Date: 19 April 2002	:	PETITION
Priority Date: 19 April 2001	:	
Attorney Docket No.: 244072US2PCT	:	UNDER 37 CFR 1.181
For: DIAGNOSIS BY SENSING VOLATILE COMPONENTS	:	

This decision is in response to "Petition Under 37 C.F.R. 1.181 to Withdraw Holding of Abandonment," filed with the United States Patent and Trademark Office on 17 December 2004.

BACKGROUND

On 19 April 2002, applicant filed international application PCT/GB02/01853, claiming a priority date of 19 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 31 October 2002. The deadline for entry into the national stage in the United States was 20 October 2003 (19 October 2003 was a Sunday).

On 20 October 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 11 March 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and additional claim fees were required.

On 19 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely respond to the Notification of Missing Requirements.

On 17 December 2004, applicant submitted the instant petition accompanied by a declaration and docket records.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). 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), (2) and (3) have been satisfied. Practitioner states that the Notification of Missing Requirements was not received. Practitioner states that a search of the file jacket and docket records indicates that the Notification was not received. Practitioner has furnished a copy of the docket records where the Notification would have been entered had it been received and has referenced the docket record in practitioner's statement.

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 11 March 2004 is **VACATED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 19 October 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 17 December 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

25 JUN 2004

#5

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Donald J. Daley
Harness, Dickey & Pierce. P.L.C.
P.O. Box 8910
Reston, Virginia 20915

In re Application of :
BUSCH et al. :
Application No.: 10/475,342 :
PCT No.: PCT/DE02/01282 : DECISION ON PETITION
Int. Filing Date: 08 April 2002 : UNDER 37 CFR 1.182
Priority Date: 20 April 2001 :
Attorney Docket No.: 32860-000640/US :
For: SWITCHGEAR UNIT FOR A CONSUMER, ESPECIALLY A MOTOR STARTER

This decision is in response to applicants' "Petition under 37 CFR 1.182" filed on 11 May 2004. Applicants are requesting to change the name of the third inventor from Manuela Gebhardt to Manuela Forster due to marriage. The petition was accompanied by an affidavit signed by Manuela Forster using both her former name and present name. The petition fee under 37 CFR 1.17 has been submitted.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order.

The petition has been reviewed and is approved. The declaration submitted on 20 October 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventors' name from Manuela Gebhardt to Manuela Forster is **GRANTED**.

This application is being forwarded to United States/Elected Office for further processing in accordance with this decision.

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
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In re Application of :
Bernardus Hendriks :
Serial No.: 10/475364 :
Filed: October 21, 2003 :
For: SCANNING DEVICE INCLUDING :
A PARTLY PLASTIC HIGH-NA :
OBJECTIVE SYSTEM :

DECISION ON PETITION
UNDER 37 CFR 1.181

The request filed on May 19, 2005, to withdraw the finality of the Office action of April 7, 2005 is treated as a Petition under 37 CFR 1.181.

The Petition is granted for the reasons as stated in the applicant's request filed on May 19, 2005. The finality of the Office action dated April 7, 2005 is withdrawn and prosecution is reopened.

This application is being forwarded to the examiner for appropriate action consistent with this decision. The finality of the Office action mailed on April 7, 2005 will be withdrawn.

Georgia Y. Epps
Supervisory Patent Examiner
Technology Center 2800

Georgia Y. Epps
SPE, Art Unit 2873

Philips Electronics North America Corporation
Corporate Patent Counsel
PO Box 3001
Briarcliff Manor, NY 10510

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Douglas W Cameron
Intellectual Property Law Department
IBM Corporation
PO Box 218
Yorktown Heights, NY 10598

Mail Date: 04/21/2010

Applicant	: Rolf Clauberg	: DECISION ON REQUEST FOR
Patent Number	: 7630414	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/475,367	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1080** 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.

10 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Caesar, Rivise, Bernstein,
Cohen & Pokotilow, Ltd.
1635 Market Street, 12th Floor
Philadelphia, PA 19103

In re Application of	:	
Detronde	:	
Application No. 10/475,386	:	DECISION ON
PCT No.: PCT/GB02/00846	:	
Int. Filing Date: 01 March 2002	:	PETITION UNDER
Priority Date: 01 March 2001	:	
Atty. Docket No.: S1011/20158	:	37 CFR 1.137(b)
For: Production Of Products	:	
From Steel Slags	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 20 October 2003.

BACKGROUND

This international application was filed on 01 March 2002, claimed an earliest priority date of 01 March 2001, 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 International Bureau transmitted a copy of the published international application to the USPTO on 12 September 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 September 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

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

Regarding requirement (1), the 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 "the entire

abandonment through the date of this reply 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.

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 **20 October 2003**.

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

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CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
FIVE BECKER FARM ROAD
ROSELAND, NJ 07068

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OFFICE OF PETITIONS

In re Application of :
Arne Veidung :
Application No. 10/475,396 : ON PETITION
Filed: January 26, 2004 :
Attorney Docket No. 53550.66 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 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 August 8, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 9, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2887 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.

April M. Wise
Petitions Examiner
Office of Petitions

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Paper No. None

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Yuichiro Sasaki :
Application No. 10/475,410 :
Patent No. 6,921,298 :
Filed: October 21, 2003 :
Issue Date: July 26, 2005 :
Attorney Docket Number: :
03404/0200134-US0 :
Title: PRESS-CONTACT TYPE :
CONNECTOR FOR CELLULAR PHONES :
AND CONNECTING STRUCTURE :
THEREFOR :

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

This is a decision on the petition filed August 16, 2005 under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee's name as "Shin-Etsu Polymer Co., Ltd., Tokyo (JP)."

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

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a

1 See Official Gazette, June 22, 2004.

certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on March 9, 2004 (Reel/Frame 015037/0742). This was prior to the payment of the Issue Fee on May 20, 2005.

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

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

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

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

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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In re Application of :
Shin et al. :
Application No. 10/475,414 : DECISION ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. SNJ-0022 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 23, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of 810.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3694 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 21, 2006

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/475429 Patent No.: 7,082,781 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

FRANTZ JULES
SUPERVISORY PATENT EXAMINER
SPE

3744
Art Unit

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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:	
Tauseef Butt et al	:	
Serial No.: 10/475,433	:	PETITION TO MAKE SPECIAL
Filed: April 23, 2004	:	
Attorney Docket No.: 1955PO2548US1	:	

This is in response to applicants= petition filed August 12, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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OFFICE OF PETITIONS

OLIFF & BERRIDGE
PO BOX 19928
ALEXANDRIA, VA 22320

In re Application of :
Christopher Newsome, et al. :
Application No. 10/475,449 : DECISION GRANTING PETITION
Filed: November 19, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 117540 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 6, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2853 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiners
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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

Mail Date: 04/21/2010

Applicant	: Philip J. Ellerbrock	: DECISION ON REQUEST FOR
Patent Number	: 7617330	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/475,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1374** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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20 JUL 2007

Timothy D. Smith
Hahn Loeser + Parks LLP
One GOJO Plaza
Suite 300
Akron, Ohio 44311-1076

In re Application of	: DECISION ON RENEWED
Yuka et al	:
Application No.: 10/475,471	:
PCT No.: PCT/JP02/03912	:
Int. Filing Date: 19 April 2002	: PETITION UNDER
Priority Date: 20 April 2001	:
Attorney's Docket No.: 114116-26	:
For: Method for Solid-Micro Extraction and	:
Apparatus Therefor	: 37 CFR 1.10 (d)

This decision is in response to applicant's "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 22 June 2007, which is being treated as a renewed petition under 37 CFR 1.10(d) requesting that the filing date of 21 October 2003 be changed to 20 October 2003 for the national stage submission for the above identified national stage application. No fee is required for this petition.

BACKGROUND

In a decision from this Office, the petition filed on 06 December 2006 was dismissed. The reason was that the application had a commencement date of 21 October 2003 rather than 20 October 2003 making paying basic national fee untimely.

On 22 June 2007, petitioner filed a renewed petition under 37 CFR 1.10(d).

DISCUSSION

Petitioner has now satisfied item (3) thus satisfying items (1)-(3) under 37 CFR 1.10(d).

With respect to item (3), a review of the file records shows that the based on the circumstantial evidence provided the correspondence was accepted at the USPS Akron Mail Office for "Express Mail" on October 20, 2003 based on the statements of USPS employee Ms. Cooper, who states that the billing information indicates the package was picked up by USPS courier in Akron, Oh 44313 on 20 October 2003.

Accordingly, the requirements under 37 CFR 1.10(d) have been satisfied.

Petitioner's request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED** since national stage commencement was timely. Accordingly, the NOTIFICATION OF ABANDONMENT, mailed 25 August 2006 has been **VACATED**.

DECISION

For the above reasons, the petition under 37 CFR 1.10(d) is **GRANTED.**

The National Stage papers were received by the USPTO on **20 October 2003**.

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
Tel: (571) 272-3276
Fax: (571) 273-0459

09 MAR 2005

UNITED STATES PATENT and TRADEMARK OFFICE

#6

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Scott M. Oldham
Hahn Loeser + Parks LLP
Twin Oaks Estate
1225 W. Market Street
Akron, OH 44313

In re Application of	:	DECISION ON
Yuka et al	:	
Application No.: 10/475,471	:	
PCT No.: PCT/JP02/03912	:	
Int. Filing Date: 19 April 2002	:	PETITION UNDER
Priority Date: 20 April 2001	:	
Attorney's Docket No.: 114116-26	:	
For: Method for Solid-Micro Extraction and Apparatus Therefor	:	37 CFR 1.10 (d)

This decision is in response to applicant's "PETITION TO CORRECT INCORRECTLY ENTERED DATE-IN UNDER 37 CFR 1.10(D)" filed on 18 February 2004 requesting that the filing date of 21 October 2003 be changed to 20 October 2003 for the national stage submission for the above identified national stage application. No fee is required for this petition.

BACKGROUND

On 19 April 2002, the above international application was filed and claims an earliest priority date of 20 April 2001.

On 20 October 2003, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States. However, the USPTO granted a filing date of 21 October 2003 as shown by the "date-in" on the "Express Mail" mailing label.

On 18 February 2004, petitioner filed a petition under 37 CFR 1.10(d) requesting that the application be granted the correct the national stage filing date of October 20, 2003 under 37 CFR 1.10(d).

DISCUSSION

37 CFR 1.10(d) provides:

Where the "date in" on the Express Mail mailing label is believed to be in error, applicants may file a petition under 37 CFR 1.10(d) to have the correspondence accorded a filing date as of the date of the correspondence is shown to have been deposited with the USPS. The requirements under 37 CFR 1.10(d) are:

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

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

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

Petitioner has satisfied items (1)-(2) but not item (3) under 37 CFR 1.10(d).

The petition was filed promptly. 37 CFR 1.10(d)(1).

The "Express Mail" Label EV415640377US copy provided with the petition does not correspond to the number found in the transmittal letter. However, review of the application papers reveals that "Express Mail" Label No. EV415640350US is still in the file application and that number was placed on petitioner's transmittal letter prior to the mailing by "Express Mail." CFR 1.10(d)(2).

Regarding item (3), petitioner has not provided an adequate showing that the correspondence was deposited with the USPS Akron, Ohio Mail Office on 20 October 2003. The petition does not include sufficient evidence that the package was picked up at petitioner's Office on such date by U.S. Post Service Courier in Akron, Ohio and then processed at the Ohio Mail Office. Although the statements by Mr. Oldham and Ms. Cooper state that the billing information indicates the package was picked up by USPS courier in Akron, Oh 44313; a review of the "Express Mail Corporate Account Mailing Receipt" provided with the petition shows that the above application with the "Express Mail" Label No. EV415640350US originated from a zip code of 20102 (the Dulles region) on 20 October 2003 and not from Ohio. Therefore, the billing information fails to confirm their statements.

In addition, the averments of Ms. Cooper are insufficient since she does not appear to have first hand knowledge of these events. Her averments offer an explanation of what could have occurred with the application. For example, she states on paragraph 5 that "...this is the most likely reason the package were labeled as being shipped from Dulles, Va rather than Arkon, Oh on October 20, 2003." However, Ms. Cooper has not offered any evidence, such as USPS records (e.g., USPS PS form5541) of the actual date of the pickup of the application.

Moreover, petitioner has not provided statements from the USPS courier that performed the service stipulated by the agreement with the USPS on 20 October 2003 that such USPS employee picked-up the above package for "Express Mail" delivery and from the HLP employee that prepared this package for pick-up by the USPS courier at HLP's Arkon Office. Petitioner should provide a copy of the USPS Pickup Service for Express Mail form (PS Form 5541) showing the record for the above application.

Accordingly, petitioner has not adequately shown that the correspondence was accepted at the USPS Arkon Mail Office for "Express Mail" mailing on 20 October 2003.

For the above reasons, it would not be appropriate to grant the petition under 37 CFR 1.10(d) at this time.

DECISION

For reasons above, the petition under 37 CFR 1.10(d) is **DISMISSED**, without prejudice.

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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

#9

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25 APR 2007

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

In re Application of	:	DECISION ON
Scott Oldham	:	
Application No.: 10/475,471	:	
PCT No.: PCT/JP02/03912	:	PETITION UNDER
Int. Filing Date: 19 April 2002	:	
Priority Date: 20 April 2001	:	37 CFR 1.181
Attorney's Docket No.: 114116-26	:	
For: Method for Solid-Micro Extraction and	:	
Apparatus Therefor	:	

This Decision is in response to applicant's "PETITION T0 WITHDRAW HOLDING OF ABANDONMENT" filed on 06 December 2006, which is being interpreted as a petition under 37 CFR 1.181 that the above-identified application was improperly held abandoned. The petition requests the withdrawal of the Notice of abandonment mailed on 25 August 2006. No petition fee is required.

BACKGROUND

On 19 April 2002, this international application was filed, claiming an earliest priority date of 20 April 2001. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 20 October 2003. This international application became abandoned with respect to the United States at midnight on 20 October 2003 for failure to pay the required basic national fee.

In a decision from this Office on 09 March 2005, the petition filed on 18 February 2004 was dismissed. Accordingly, the filing date accorded for entering national stage remained 21 October 2003. The petition set a two month period to response.

On 25 August 2005, the Office mailed a "NOTICE OF ABANDONMENT," which indicated that the application is abandoned for failure to timely reply to the Decision on the Petition mailed on 03/09/2005.

DISCUSSION

A review of the file shows that the Notice of Abandonment was correct because petitioner failed to commence national stage thirty (30) months from the earliest priority date. The application became abandoned on 20 October 2003 for failure to pay the basic national fee timely. The application has a commencement date of 21 October 2003, and applicant failed to show via a petition that the correct commencement date and that the date of paying the basic national fee should have been 20 October 2003.

The NOTICE OF ABANDONMENT, mailed 25 August 2006 is **CORRECT**.

DECISION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED.**

If reconsideration of the merits of the petition under 37 CFR 1.181 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 1.181." 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
Telephone: (571) 272-3276
Facsimile: (571) 273-6459

#11

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20 JUL 2007

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Timothy D. Smith
Hahn Loeser + Parks LLP
One GOJO Plaza
Suite 300
Akron, Ohio 44311-1076

In re Application of	: DECISION ON RENEWED
Yuka et al	:
Application No.: 10/475,471	:
PCT No.: PCT/JP02/03912	:
Int. Filing Date: 19 April 2002	: PETITION UNDER
Priority Date: 20 April 2001	:
Attorney's Docket No.: 114116-26	:
For: Method for Solid-Micro Extraction and	:
Apparatus Therefor	: 37 CFR 1.10 (d)

This decision is in response to applicant's "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 22 June 2007, which is being treated as a renewed petition under 37 CFR 1.10(d) requesting that the filing date of 21 October 2003 be changed to 20 October 2003 for the national stage submission for the above identified national stage application. No fee is required for this petition.

BACKGROUND

In a decision from this Office, the petition filed on 06 December 2006 was dismissed. The reason was that the application had a commencement date of 21 October 2003 rather than 20 October 2003 making paying basic national fee untimely.

On 22 June 2007, petitioner filed a renewed petition under 37 CFR 1.10(d).

DISCUSSION

Petitioner has now satisfied item (3) thus satisfying items (1)-(3) under 37 CFR 1.10(d).

With respect to item (3), a review of the file records shows that the based on the circumstantial evidence provided the correspondence was accepted at the USPS Akron Mail Office for "Express Mail" on October 20, 2003 based on the statements of USPS employee Ms. Cooper, who states that the billing information indicates the package was picked up by USPS courier in Akron, Oh 44313 on 20 October 2003.

Accordingly, the requirements under 37 CFR 1.10(d) have been satisfied.

Petitioner's request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED** since national stage commencement was timely. Accordingly, the NOTIFICATION OF ABANDONMENT, mailed 25 August 2006 has been **VACATED**.

DECISION

For the above reasons, the petition under 37 CFR 1.10(d) is **GRANTED.**

The National Stage papers were received by the USPTO on **20 October 2003**.

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
Tel: (571) 272-3276
Fax: (571) 273-0459

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

Mail Date: 04/21/2010

Applicant	: Daniel W. Konz	: DECISION ON REQUEST FOR
Patent Number	: 7581031	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/475,475	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1442** 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 AUG 2004
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Incyte Corporation
Legal Department
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
WARREN et al.	:	
Application No.: 10/475,476	:	
PCT No.: PCT/US02/12100	:	DECISION ON PETITION
Int. Filing Date: 16 April 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 20 April 2001	:	
Attorney Docket No.: PF-0950-USN	:	
For: VESICLE ASSOCIATED PROTEINS	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 10 May 2004 to accept the application without the signature of joint-inventor, Ann E. Gorvad. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 16 April 2002, applicants filed international application PCT/US02/12100 which claimed a priority date of 20 April 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, 20 October 2003.

On 20 October 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 27 February 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 29 March 2004, applicants filed a declaration executed by eighteen of the nineteen applicant/inventors.

On 06 April 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) and a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.497(a) and (b).

On 10 May 2004, applicant filed the present petition under 37 CFR 1.47(a) on behalf of Ann E. Gorvad.

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 applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Ann E. Gorvad. The steps taken by Lisa A. McDill are sufficient to show that Ann E. Gorvad has refused to execute the application.

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

08/26/2004 MKAYPAGH 00000004 090108 10475476
01 FC:1460 130.00 DA

CONCLUSION

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

The application has an international filing date of 16 April 2002 under 35 U.S.C. 363, and will be given a date of **29 March 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

24 AUG 2004

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Ann E. Gorvad
2519 Sylvan Street
Bellingham, Washington 98226

In re Application of
WARREN et al.
Application No.: 10/475,476
PCT No.: PCT/US02/12100
Int. Filing Date: 16 April 2002
Priority Date: 20 April 2001
Attorney Docket No.: PF-0950-USN
For: VESICLE ASSOCIATED PROTEINS

Dear Ms.Gorvad:

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

Legal Department
Incyte Corporation
3160 Porter Drive
Palo Alto, CA 94304

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Paper No. None

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540 WHITE PLAINS RD
P O BOX 2005
TARRYTOWN NY 10591-9005

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MAY 02 2006
OFFICE OF PETITIONS

In re Application of	:	
Stephen Wilfred Wilson	:	
Application No. 10/475,477	:	
In re Patent No. 6,988,823	:	
Filing Date: October 20, 2003	:	
Issue Date: January 24, 2006	:	DECISION ON PETITION
Attorney Docket Number: CE/3-22315/AC 564/PCT	:	UNDER 37 C.F.R. §1.183
Title: APPARATUS AND METHOD FOR WETTING POWDER	:	

This is a decision on the petition filed February 17, 2006 under 37 C.F.R. §1.183, which is properly treated as a petition under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner requests that a Certificate of Correction be issued correcting the address for an assignee. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the address of the Assignee which appears on the face of the patent should be changed.

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

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a

1 See Official Gazette, June 22, 2004.

certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Both Petitioner's evidence and Office records show that the assignment for the above-identified application was recorded in the Office prior to the payment of the Issue Fee on October 19, 2005.

The petition is **GRANTED**.

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

The application file will be forwarded to the Certificates of Correction Branch so that the requested Certificate of Correction can be issued.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Kishor Kumar Mistry	: DECISION ON REQUEST FOR
Patent Number	: 7648715	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/475,480	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **789** 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.

30 MAY 2008

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Fulbright & Jaworski, LLP
1301 Mckinney
Suite 5100
Houston, TX 77010-3095

In re Application of
MATSUK et al.
Application No.: 10/475,502
PCT No.: PCT/US02/13245
Int. Filing Date: 26 April 2002
Priority Date: 27 April 2001
Atty. Docket No.: HO-P01925US7
For: OVARY-SPECIFIC GENES AND PROTEINS

DECISION ON PETITION
UNDER
37 CFR 1.181

This decision is in response to applicant's "Petition to Correct Priority" filed 09 January 2008 which is being treated as a Petition under 37 CFR 1.181 to correct office records to accurately applicant's priority claim.

Applicant requests that the Official Filing Receipt indicates: this application (10/475,502) is the national stage application of PCT/US02/13245 filed 26 April 2002, which is a continuation-in-part of 09/844,864 filed 27 April 2001, which is a continuation-in-part of PCT/US99/25209 filed 28 October 1999, and claims benefit to 60/106,020 filed 28 October 1998.

Applicant's petition is **GRANTED**.

In this case, the above identified domestic priority information was present in a timely filed application data sheet. (see 37 CFR 1.78)

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

The fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly,

the examiner will, in due course, consider these benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/475,502	08/05/2004	1637	3872	HO-P01925US7	48	26

CONFIRMATION NO. 7849

CORRECTED FILING RECEIPT

26271
FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

Date Mailed: 05/30/2008

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

Applicant(s)

Martin M. Matzuk, Pearland, TX;
Xuemei Wu, Houston, TX;
Pei Wang, Houston, TX;
Yuchen Bai, Newton, PA;

Power of Attorney: The patent practitioners associated with Customer Number 26271

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US02/13245 04/26/2002
which is a CIP of 09/844,864 04/27/2001 ABN
which is a CIP of PCT/US99/25209 10/28/1999
which claims benefit of 60/106,020 10/28/1998

Foreign Applications

If Required, Foreign Filing License Granted: 09/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/475,502**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ovary-specific genes and proteins

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 AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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18 MAY 2007

Christopher Eisenschenk
Saliwanchik Lloyd & Saliwanchik, PA
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON PETITION UNDER
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	37 CFR 1.137(b)
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is a corrected decision on applicants' "Second Renewed Petition Under 37 CFR 1.137(b)," filed in the above-captioned application on 29 January 2007

BACKGROUND

On 19 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 29 January 2007, applicants submitted this renewed petition under 37 CFR 1.137(b).

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) the required 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).

Items (1), (3) and (4) were previously satisfied.

Item (2) has not been satisfied. Applicant has now submitted a translation of the international application into English. However, a sequence listing in computer readable format was required by the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 22 January 2004, but has not yet been provided.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The Decision On Petition Under 37 CFR 1.137(b) mailed 17 April 2007 is **VACATED**.

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(b)."

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

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18 MAY 2007

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

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	PETITION
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is in response to applicant's request to withdraw as attorneys of record, filed 03 May 2007, requesting permission to withdraw as agents of record in regard to 10/475,510. Request is **GRANTED**.

As set forth in 37 CFR 1.36, a registered attorney or agent may withdraw, upon application to and approval by the Commissioner, so long as sufficient time remains for applicant to respond to any pending action. In the present case, the request to withdraw filed 03 May 2007, is signed by Donald J. Daley, on behalf of the attorneys associated with customer number 30593.

Currently the application is abandoned and no action is required on this application within the next 30 days, so the requirement of "at least 30 days between *approval* of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a)," is satisfied.

For the reasons above, the request to withdraw as agents of record is **GRANTED** as to the attorneys associated with customer number 30593.

A copy of this communication and all future communication will be directed to Christopher Eisenschenk at Saliwanchik Lloyd & Saliwanchik, PA, P.O. Box 142950, Gainesville, FL 32614-2950.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

cc: Christopher Eisenschenk
Saliwanchik Lloyd & Saliwanchik, PA
P.O. Box 142950
Gainesville, FL 32614-2950

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19 JUN 2007

Christopher Eisenschenk
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Gainesville, FL 32614-2950

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON PETITION UNDER
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	37 CFR 1.137(b)
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is a decision on applicants' renewed submission under 37 CFR 1.137(b), filed in the above-captioned application on 21 May 2007

BACKGROUND

On 18 May 2007, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 21 May 2007, applicants submitted this renewed petition under 37 CFR 1.137(b), accompanied by a sequence listing in computer readable format.

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) the required 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).

Items (1), (3) and (4) were previously satisfied.

Item (2) has now been satisfied. Applicant previously submitted a translation of the international application into English and has now furnished a sequence listing in computer readable format.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 January 2007.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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#9

UNITED STATES PATENT AND TRADEMARK OFFICE

25 SEP 2006

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

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON PETITION UNDER
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	37 CFR 1.137(b)
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is a decision on applicants' "Petition to Revive an Unintentionally Abandoned Under 37 C.F.R. §1.137(b)," filed in the above-captioned application on 06 April 2006.

BACKGROUND

On 13 April 2002, applicants filed an international application number PCT/EP02/04134, claiming a priority date of 23 April 2001. A copy of the international application was transmitted to the Office by the International Bureau on 28 November 2002. As such, the thirty month period for entering the national stage in the United States expired at midnight on 23 October 2003.

On 22 October 2003, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 22 January 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the text in the drawings and some text in the sequence listing had not been translated. The notification required submission of a proper translation, the processing fee for late submission of the translation, and an oath or declaration of the inventors.

On 11 February 2005, 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 06 April 2006, applicants filed a petition to revive the international application under 37 CFR 1.137(b).

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) the required 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).

Items (1), (3) and (4) have been satisfied. Applicants have made the required statement. The petition fee has been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (2) has not been satisfied. The proper reply is a response to the Notification of Missing Requirements. Applicants have furnished a declaration of the inventors and the fee for late furnishing of the translation will be charged to deposit account no. 08-0750, as authorized. However, applicants have not furnished a proper English translation as set out in the Notification of Missing Requirements.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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(b)."

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
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PCT Legal Administration

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19 OCT 2006

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

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON PETITION UNDER
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	37 CFR 1.137(b)
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.137(b)," filed in the above-captioned application on 04 October 2006.

BACKGROUND

On 25 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 04 October 2006, applicants submitted a renewed petition under 37 CFR 1.137(b).

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) the required 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).

Items (1), (3) and (4) were previously satisfied.

Item (2) has not been satisfied. The proper reply is a response to the Notification of Missing Requirements. Applicants previously furnished a declaration of the inventors. However, Notification of Missing Requirements indicated that some text in the drawings and some text in the Sequence Listing had not been translated. As such, a proper English translation was required. The translation submitted by applicants is a resubmission of the original, flawed translation. A translation of the international application into English is still required.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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(b)."

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
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#15

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17 APR 2007

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P.O. BOX 8910
RESTON, VA 20195

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON PETITION UNDER
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	37 CFR 1.137(b)
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is a decision on applicants' "Second Renewed Petition Under 37 CFR 1.137(b)," filed in the above-captioned application on 29 January 2007

BACKGROUND

On 19 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 29 January 2007, applicants submitted this renewed petition under 37 CFR 1.137(b).

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) the required 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).

Items (1), (3) and (4) were previously satisfied.

Item (2) has now been satisfied. Applicant has now submitted a translation of the international application into English.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 January 2007.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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#17

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18 MAY 2007

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

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	PETITION
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is in response to applicant's request to withdraw as attorneys of record, filed 03 May 2007, requesting permission to withdraw as agents of record in regard to 10/475,510. Request is **GRANTED**.

As set forth in 37 CFR 1.36, a registered attorney or agent may withdraw, upon application to and approval by the Commissioner, so long as sufficient time remains for applicant to respond to any pending action. In the present case, the request to withdraw filed 03 May 2007, is signed by Donald J. Daley, on behalf of the attorneys associated with customer number 30593.

Currently the application is abandoned and no action is required on this application within the next 30 days, so the requirement of "at least 30 days between *approval* of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a)," is satisfied.

For the reasons above, the request to withdraw as agents of record is **GRANTED** as to the attorneys associated with customer number 30593.

A copy of this communication and all future communication will be directed to Christopher Eisenschenk at Saliwanchik Lloyd & Saliwanchik, PA, P.O. Box 142950, Gainesville, FL 32614-2950.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

cc: Christopher Eisenschenk
Saliwanchik Lloyd & Saliwanchik, PA
P.O. Box 142950
Gainesville, FL 32614-2950

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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18 MAY 2007

Christopher Eisenschenk
Saliwanchik Lloyd & Saliwanchik, PA
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of	:	
JOMAA, Hassan et al.	:	
Application No.: 10/475,510	:	DECISION
PCT No.: PCT/EP02/04134	:	
Int. Filing Date: 13 April 2002	:	ON PETITION UNDER
Priority Date: 23 April 2001	:	
Docket No.: 40770-000161/US	:	37 CFR 1.137(b)
For: INACTIVATION OF GENES OF THE MEP PATHWAY	:	

This is a corrected decision on applicants' "Second Renewed Petition Under 37 CFR 1.137(b)," filed in the above-captioned application on 29 January 2007

BACKGROUND

On 19 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 29 January 2007, applicants submitted this renewed petition under 37 CFR 1.137(b).

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) the required 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).

Items (1), (3) and (4) were previously satisfied.

Item (2) has not been satisfied. Applicant has now submitted a translation of the international application into English. However, a sequence listing in computer readable format was required by the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 22 January 2004, but has not yet been provided.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The Decision On Petition Under 37 CFR 1.137(b) mailed 17 April 2007 is **VACATED**.

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(b)."

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

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Paper No.

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

MAILED
JUL 22 2010
OFFICE OF PETITIONS

In re Patent No. 7,618,686	:	DECISION ON REQUEST
Colpo et al.	:	FOR
Issue Date: November 17, 2009	:	RECONSIDERATION OF
Application No. 10/475,512	:	PATENT TERM ADJUSTMENT
Filed: March 25, 2004	:	and
Atty Docket No. 244220US2PCT	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand and sixty-six (1066)** days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand and seventy-five (1075)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 26, 2007 and ends on September 30, 2008, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 555 not 546 days. Accordingly, the patent term adjustment is now increased to 1075 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand and seventy-five (1075)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,618,686 B2

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : Colpo et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 714 days

Delete the phrase "by 714 days" and insert – by 1075 days--

18 MAR 2004

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Bruce H. Bernstein
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
KIM	:	
Application No.: 10/475,527	:	DECISION ON PETITION
PCT No.: PCT/KR02/03158	:	
Int. Filing Date: 28 January 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 29 January 2001	:	
Atty. Docket No.: P24342	:	
For: METHOD OF TRANSMITTING IMAGES FOR ONLINE PUBLICATION	:	

The petition to revive under 37 CFR 1.137(b) filed 29 October 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "[T]he undersigned notes that he has been informed that Applicant's failure to timely enter the national stage was not intentional but was only caused by an error, whereby it is respectfully submitted that the entire delay in entering the national stage 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.

The application has an international filing date of 29 January 2001 under 35 U.S.C. 363 and will be given a date of **29 October 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

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OPPENDAHL AND LARSON, LLP
P.O. BOX 5068
DILLON, CO 80435-5068

COPY MAILED

FEB 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Jonathan Duquenne et al. :
Application No. 10/475,556 : DECISION ON PETITION
Filed: October 22, 2003 : TO WITHDRAW
Attorney Docket No. LBOY.P-016 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 17, 2008.

The request is **APPROVED**.

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

The request was signed by Carl Oppendahl, on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If you would like to receive future correspondence regarding this application, then the proper power of attorney documents must be submitted.

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

There are no outstanding Office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jonathan Duquenne
21, rue Georges, F-92250
La Garenne Colombes
FRANCE

cc: Marina Larson and Associates, LLC
P.O. Box 4928
Dillon, CO 80435-4928

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/475,556	10/22/2003	Jonathan Duquenne	LBOY.P-016

CONFIRMATION NO. 9751

POWER OF ATTORNEY NOTICE

21121
OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON, CO 80435-5068

OC000000028187919

Date Mailed: 02/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

26 APR 2004

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Allen J. Hoover
Woods, Phillips, Katz, Clark & Mortimer
Citicorp Building--Suite 3800
500 West Madison Street
Chicago, Illinois 60661-2511

In re Application of	:	
Collin Edward SULLIVAN	:	
Application No.: 10/475,571	:	
PCT Application No.: PCT/AU02/00056	:	DECISION ON
International Filing Date: 18 January 2002	:	
Priority Date: 25 January 2001	:	PETITION
Attorney Docket No.: FBR10000P0070US	:	
For: DETERMINING HEART RATE	:	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 United States Patent and Trademark Office (USPTO) on 22 October 2003 is **GRANTED**.

BACKGROUND

On 18 January 2002, applicant filed international application number PCT/AU02/00056. This application claims priority of an Australian application that was filed on 25 January 2001. A copy of the international application was communicated to the USPTO by the International Bureau on 01 August 2002. The deadline for paying the basic national fee for the United States National Stage was thirty months from the priority date, that is 25 July 2003.

On 22 October 2003, applicant filed, *inter alia*, the petition to revive and a check in the amount of $1,263.00 to cover, *inter alia*, the basic national fee and the petition fee set forth in 37 CFR 1.17 (m).

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 submission of 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). 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 submitted 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 as to the National Stage in the United States of America is **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 a signed oath or declaration of the inventors is due. Applicant has already paid the surcharge for late filing of the oath or declaration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
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CHRISTIE, PARKER & HALE
350 West Colorado Boulevard
Suite 500
Pasadena, CA 91105

In re Application of:
GREEN, David, Robin, et al.
U.S. Application No.: 10/475,574
PCT No.: PCT/CA02/00574
International Filing Date: 22 April 2002
Priority Date: 23 April 2001
Attorney's Docket No.: 51420/DBP/F50
For: POTTED DOMED SOLAR PANEL CAPSULE AND TRAFFIC WARNING LAMPS INCORPORATING SAME

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Pursuant To 37 CFR 1.47(a)" filed 15 October 2004. Applicants have paid the required petition fee.

BACKGROUND

On 22 April 2002, applicants filed international application PCT/CA02/00574 which claimed a priority date of 23 April 2001 and which designated the United States. On 31 October 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., 23 October 2003.

On 22 October 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 16 April 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 was required.

On 15 October 2004, applicants filed a response to the Notification Of Missing Requirements (with the small-entity fee for a four-month extension of time). The submission included declarations executed by four of the six inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of remaining inventors, Michael COSTA and Stanislav POLYAKOV, whom applicants assert have refused to execute 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 have paid the required petition fee. Accordingly, item (1) is satisfied.

The petition provides 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 declarations executed by four of the six inventors, and an additional copy of the declaration executed on behalf of the nonsigning inventors (Michael COSTA and Stanislav POLYAKOV) by one of the other joint inventors, David Robin GREEN. Because applicants have submitted a declaration specifically executed on behalf of the nonsigning inventors by one of the other joint inventors, the presumption that the other three inventors executed the declaration on their own behalf and on behalf of the nonsigning inventors cannot be applied to the present declaration. Applicants must submit newly executed declarations executed by the cooperating inventors and containing unsigned signature blocks for the nonsigning inventors. Such a declaration can than be treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventors. Until such declaration is submitted, item (3) is not satisfied.

Regarding item (4), the petition asserts that the nonsigning inventors have refused to execute the application. Under such circumstances, section 409.03(d) of the MPEP requires that the refusing 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 firsthand and documentary evidence demonstrating that a copies of the complete application papers and requests for signature have been provided to the nonsigning inventors, and that these inventors have failed to provide executed declarations. The submitted materials are accepted as demonstrating that the nonsigning inventors have refused to execute the application.

Based on the above, applicants have satisfied three of the four requirements for a grantable petition. Because all the requirements have not been satisfied, granting of the petition on the present record is inappropriate.

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 declaration materials required to satisfy item (3) of a grantable petition, as discussed 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
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10 JUN 2005

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Pasadena, CA 91105

In re Application of:
GREEN, David, Robin, et al.
U.S. Application No.: 10/475,574
PCT No.: PCT/CA02/00574
International Filing Date: 22 April 2002
Priority Date: 23 April 2001
Attorney's Docket No.: 51420/DBP/F50
For: POTTED DOMED SOLAR PANEL CAPSULE AND TRAFFIC WARNING LAMPS INCORPORATING SAME

DECISION ON PETITION UNDER 37 CFR 1.47(a)

In a decision mailed 16 November 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy the requirements for a grantable petition. Specifically, the decision stated that the declarations filed by applicants could not be accepted as having been executed by the cooperating inventors on their own behalf and on behalf of the nonsigning inventors. The decision stated that applicants "must submit newly executed declarations executed by the cooperating inventors and containing unsigned signature blocks for the nonsigning inventors" before the petition could be granted.

On 02 February 2005, applicants filed the "Reply To Decision On Petition Under 37 CFR 1.47(a) Dated November 16, 2004" considered herein (Deposit Account No. 03-1728 will be charged the required extension fee). The 02 February 2005 submission did not include a newly executed declaration, as required by the previous decision. Rather, applicants argued that the previously filed declarations should be accepted as having been executed by the cooperating inventors on their own behalf and on behalf of the nonsigning inventors.

Applicants' argument is rejected. As quoted in the previous decision, section 409.03(a) of the MPEP permits "an oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank" to be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s) "unless otherwise indicated." Here, applicants did not file only "an oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank." Rather, the declaration documents filed by applicants included a copy of the declaration with the signature blocks of the nonsigning inventors specifically executed on behalf of the nonsigning inventors by one of the cooperating inventors (Mr. GREEN). The present application therefore does not fall within the scope of the limited presumption described by the MPEP. The fact that the inventor who signed on behalf of the nonsigning inventors did so on the instruction of counsel does not require a different outcome. In fact, the underlying facts discussed in the present renewed

petition further contradict the presumption, as it is clear from these materials that the declarations were filed with the understanding that the only inventor who had executed the declaration on behalf of the nonsigning inventors was Mr. GREEN.

Based on applicants' failure to provide the newly executed declarations required for a grantable petition, the renewed petition 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 "Second Renewed Petition Under 37 CFR 1.47(a)" and must include the declaration materials required to satisfy item (3) of a grantable petition, as discussed 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). Any response that does not include the required declaration materials (i.e., a submission that includes only further argument as to the acceptability of the previously filed declarations) will not be considered a bona fide response and will result in abandonment of the application.

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

Richard M. Ross
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21 OCT 2005

#10

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Pasadena, CA 91105

In re Application of:
GREEN, David, Robin, et al.
U.S. Application No.: 10/475,574
PCT No.: PCT/CA02/00574
International Filing Date: 22 April 2002
Priority Date: 23 April 2001
Attorney's Docket No.: 51420/DBP/F50
For: POTTED DOMED SOLAR PANEL CAPSULE AND TRAFFIC WARNING LAMPS INCORPORATING SAME

DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision issued by this Office on 16 November 2004, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy all the requirements for a grantable petition. Specifically, applicants had failed to provide an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the nonsigning inventors.

On 09 August 2005, applicants filed the second renewed petition considered herein. The second renewed petition includes additional copies of the declaration expressly executed on behalf of nonsigning inventors Michael COSTA and Stanislav POLYAKOV by applicants Johny MENDEZ, Chris PAYNTER and Nicu ICRIVERZI. In combination with the previously filed declarations (i.e., the declarations executed by these inventors on their own behalf and the declarations executed by applicant David GREEN on his own behalf and on behalf of the nonsigning inventors), these materials are sufficient to satisfy the final requirement for a grantable petition.

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

The application is accepted without the signature of inventors Michael COSTA and Stanislav POLYAKOV.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the inventors of the application will be forwarded to the nonsigining inventors at their last-known addresses, 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 09 August 2005.

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Date Mailed: May 15, 2008
Patent No. :7,179,786 B2
Ser. No. :10/475616
Inventor(s) :Ermanno Gerardi, et al.
Issued :February 20, 2007
Title: VARIANTS OF THE NK1 FRAGMENT OF HEPATOCYTE GROWTH FACTOR/SCATTER FACTOR (HGF/SF) AND THEIR USE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Bell, Boyd & Lloyd LLP
P.O. Box 1135
Chicago, IL 60602

MD/mt

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United States Patent and Trademark Office
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BELL, BOYD, & LLOYD LLP
P.O. BOX 1135
CHICAGO IL 60690

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OFFICE OF PETITIONS

In re Application of	:	
Gherardi et al.	:	
Application No. 10/475616	:	DECISION
Filing or 371(c) Date: 04/29/2004	:	ON PETITION
Patent No.: 7179786	:	
Issue Date: 02/20/2007	:	
Attorney Docket Number: 116672-009	:	

This is a decision on the "Request to Correct Assignee Under 37 CFR 3.81(b)," filed May 30, 2008, requesting a change in the name of the assignee after payment of the issue fee.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that Cambridge Enterprise Limited, and Medical Research Council, are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,364,628	:	ON PETITIONS
Kakimoto et al.	:	under 37 CFR 1.183
Issue Date: April 29, 2008	:	and
Application No. 10/475,617	:	ON REQUEST FOR RECONSIDERATION
Filed: October 22, 2003	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
01197.0234	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on October 24, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), 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).

BACKGROUND

On April 29, 2008, the above-identified application matured into U.S. Patent No. 7,364,628 with a revised patent term adjustment of 168 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. Patentees now petition under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37

C.F.R. § 1.705(d) that an Application for Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentees reference the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on April 29, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until October 24, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

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 June 29, 2008, the date two months from the date this patent issued, April 29, 2008. Rather, on October 24, 2008, nearly one (1) month after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

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 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioners' arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioners is that:

---

[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 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.

> On September 30, 2008, U.S. District Court for the District of Columbia ruled in Wyeth v. Dudas that the USPTO had made an error in the manner it determined PTA. Specifically, the court's decision relates to situations in which separate time periods of PTA accrue due to PTO examination delay and those time periods do not overlap. The court ruled that in such situations, the PTA should be determined as the sum of the term adjustments of the respective time periods, rather than the greater one of the term of adjustments, the latter practice being the PTO's manner of PTA determination used to date.

Petitioners have not explained why they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Petitioners' argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered nearly five (5) months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentees had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioners chose not to challenge their revised patent term adjustment within the two-month period. Petitioners' argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two (2) months after the issuance of their patent, is not persuasive.

Petitioners could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioners may have chosen not to file a request for reconsideration based on a conclusion that the Office's

interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioners' unexplained nearly four (4)-month delay in filing the petition weighs against them.

Petitioners simply fail to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioners cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

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).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT," filed October 24, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to three hundred sixteen (316) days.

On April 29, 2008, the above-identified application matured into U.S. Patent No. 7,364,628 with a revised patent term adjustment of 168 days. The instant request for reconsideration was filed nearly six (6) months after the issuance of the patent, on October 24, 2008.

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**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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WASHINGTON DC 20043-9998

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In re Application of	:	
Martin Sanders	:	LETTER REGARDING PATENT
Application No. 10/475,658	:	TERM ADJUSTMENT
Filed: March 31, 2004	:	
Atty Docket No. 31229-198245	:	

This letter is in response to the "Request for Recalculation of Patent Term Adjustment," filed March 27, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of 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 **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 3, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 17 days. On March 27, 2008, applicant submitted the instant comment.

Applicant directs the Office's attention to the filing of a Request for Continued Examination (RCE), Amendment, and Request for an Extension of Time for Response within the first month filed on March 27, 2007.[1]

The application history has been reviewed and it has been determined that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 17 days is incorrect.

A final Office action was mailed on November 27, 2006. Applicant filed their response in the form of an RCE, Amendment, and Request for an Extension of Time on March 27, 2007, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR 1.704(b). Thus, applicants failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should have been reduced by 28 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, February 28, 2007, ending on the date the reply was filed, March 27, 2007. See 37 CFR 1.704(b). Accordingly, a period of reduction of 28 days will be entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **zero (0) days** (241 days of Office delay - 252 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for applicant's good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

---

[1] The PTA Calculations as viewable in PAIR incorrectly reflects the date of receipt of the RCE, Amendment, and Request for an Extension of Time for Response as March 26, 2007, instead of March 27, 2007.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Friday
Date: 9/12/2008

PALM INTRANET

Time: 09:33:03

PTA Calculations for Application: 10/475658			
Application Filing Date:	03/31/2004	PTO Delay (PTO):	241
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	224
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	09/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
49	03/03/2008	MAIL NOTICE OF ALLOWANCE			
48	02/28/2007	ISSUE REVISION COMPLETED			
47	02/11/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
46	02/11/2008	DOCUMENT VERIFICATION			
45	02/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	02/04/2008	NOTICE OF ALLOWABILITY			
40	12/20/2007	DATE FORWARDED TO EXAMINER			
39	12/04/2007	RESPONSE AFTER NON-FINAL ACTION		91	36
38	12/04/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	06/04/2007	MAIL NON-FINAL REJECTION			
35	05/29/2007	NON-FINAL REJECTION			
34	04/03/2007	DATE FORWARDED TO EXAMINER			
33	03/26/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
32	04/03/2007	DATE FORWARDED TO EXAMINER			
31	03/26/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
30	04/03/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
29	03/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	03/27/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
27	11/27/2006	MAIL FINAL REJECTION (PTOL - 326)			
26	11/22/2006	FINAL REJECTION			

25	09/20/2006	DATE FORWARDED TO EXAMINER			
24	09/07/2006	RESPONSE AFTER NON-FINAL ACTION		105	21
23	08/08/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
22	06/05/2006	DATE FORWARDED TO EXAMINER			
21.1	05/25/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
21	05/25/2006	RESPONSE AFTER NON-FINAL ACTION		28	18
20	05/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	06/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	01/27/2006	MAIL NON-FINAL REJECTION	241		-1
17	01/23/2006	NON-FINAL REJECTION			
16	03/31/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	05/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	05/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	03/31/2004	REFERENCE CAPTURE ON IDS			
12.7	03/31/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/31/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/30/2004	CLEARED BY OIPE CSR			
9	03/31/2004	371 COMPLETION DATE			
8	04/20/2004	APPLICATION DISPATCHED FROM OIPE			
7	04/20/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	03/31/2004	ADDITIONAL APPLICATION FILING FEES			
4	03/31/2004	INFORMATION DISCLOSURE STATEMENTS			
3	03/31/2004	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

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Young & Thompson
745 South 23rd Street
Second Floor
Arlington, VA 22202

In re Application of :
BOURGES-SEVENIER :
Application No. 10/475,662 : DECISION ON PETITION
PCT No.: PCT/FR02/01295 : UNDER 37 CFR 1.47(b)
Int. Filing Date: 15 April 2002 :
Priority Date: 23 April 2001 :
Attorney Docket No.: 0505-1031 :
For: HOP EXTRACTS AND USE THEREOF :
IN THE PRODUCTION OF A
MEDICAMENT HAVING ESTROGENIC
PROPERTIES

This decision is in response to applicant's "Petition under 37 C.F.R. 1.47(b)" filed 04 May 2004 to accept the application without the signature of inventor, Cedric Bourges-Sevenier.

BACKGROUND

On 15 April 2002, applicant filed international application PCT/FR02/01295 which claimed a priority date of 23 April 2001. Pursuant to 37 CFR 1.495, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, 23 October 2003.

On 23 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; and a preliminary amendment.

On 04 March 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 must be filed. The notification set a two-month time limit in which to respond.

On 04 May 2004, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of 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 damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of item (1) through (4) and (6) above. However, item (5) has not been satisfied.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, 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 otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Regarding item (5), petitioner has not demonstrated that applicant has a propriety interest in the invention. As stated above, when an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. A copy of the assignment has not been presented. Petitioner has provided a copy of a Work Contract executed by Cedric Bourges-Sevenier as proof that the inventor has agreed in writing to assign the invention. However, the Work Contract is silent regarding the ownership of inventions made during Mr. Bourges-Sevenier's employment . Further, an affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed has not been provided. As stated in section 409.03(f) of the M.P.E.P. when such an employment agreement is relied upon, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant. Additionally, petitioner has provided a "legal memorandum" which states "according to French Law, namely Art.L-611.7 of the Industrial Property Code, an invention, made by an employee in execution of ordered studies and researches, belongs to the employer." However, the legal memorandum does not provide sufficient proof that applicant has a propriety interest in the invention, in that, the assertions made in the legal memorandum are not based on firsthand knowledge. Additonally, an affidavit or declaration of the person having firsthand knowledge of facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant has not been presented.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Cedric Bourges-Sevenier under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition filed 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 MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Young & Thompson
745 South 23rd Street
Second Floor
Arlington, VA 22202

In re Application of	:	
BOURGES-SEVENIER	:	
Application No. 10/475,662	:	DECISION ON PETITION
PCT No.: PCT/FR02/01295	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 15 April 2002	:	
Priority Date: 23 April 2001	:	
Attorney Docket No.: 0505-1031	:	
For: HOP EXTRACTS AND USE THEREOF IN THE PRODUCTION OF A MEDICAMENT HAVING ESTROGENIC PROPERTIES	:	

This decision is in response to applicant's "Petition under 37 C.F.R. 1.47(b)" filed 04 May 2004 to accept the application without the signature of inventor, Cedric Bourges-Sevenier.

BACKGROUND

On 15 April 2002, applicant filed international application PCT/FR02/01295 which claimed a priority date of 23 April 2001. Pursuant to 37 CFR 1.495, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, 23 October 2003.

On 23 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; and a preliminary amendment.

On 04 March 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 must be filed. The notification set a two-month time limit in which to respond.

On 04 May 2004, applicant filed the present petition under 37 CFR 1.47(b). In a Decision dated 01 July 2004, the petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 01 September 2004, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of 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 damages.

A review of the materials submitted with the renewed petition reveals that applicant has now submitted materials which, taken in combination with the previous submissions, satisfy all the requirements for a grantable petition under 37 CFR 1.47(b).

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application will be given an international filing date of 15 April 2002 under 35 U.S.C. 363, and a date of **04 May 2004** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), 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(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

23 SEP 2004

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Cedric Bourges-Sevenier
61 E, Avenue de l'Europe
49130 Les Ponts De Ce
France

In re Application of
BOURGES-SEVENIER
Application No. 10/475,662
PCT No.: PCT/FR02/01295
Int. Filing Date: 15 April 2002
Priority Date: 23 April 2001
Attorney Docket No.: 0505-1031
For: HOP EXTRACTS AND USE THEREOF IN THE PRODUCTION OF A MEDICAMENT HAVING ESTROGENIC PROPERTIES

Dear Cedric Bourges-Sevenier:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Attorney
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

Counsel of Record:
Young & Thompson
745 South 23rd Street
Second Floor
Arlington, VA 22202

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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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DEC 03 2007

OFFICE OF PETITIONS

In re Application of
Wolfgang HAHN
Application No. 10/475,668
Filed: March 22, 2004
Attorney Docket No. 449122065500

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 August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP, has been revoked by the assignee of the patent application on October 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO, IL 60690

27 APR 2004

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KNOBBE, MARTENS, OLSON, & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of :
DOONAN, Ross :
U.S. Application No.: 10/475,695 :
PCT No.: PCT/AU01/00033 :
Int. Filing Date: 22 October 2003 :
Priority Date: None :
Attorney Docket No.: BALDS11.002APC :
For: WINDOW SCREEN FIXING ARRANGEMENT :

DECISION ON PETITION FOR REVIVAL 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 with the national stage papers on 22 October 2003 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate basic national fee, a surcharge fee, and the petition fee have been paid. Applicant states that "the entire delay in filing the above-identified U.S. national stage application from 30 months deadline until the filing of a grantable petition under § 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted with the national stage papers. The application has an international filing date of 22 October 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 October 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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Tim A Cheatham
Mallinckrodt Inc
675 McDonnell Boulevard
Po Box 5840
St Louis MO 63134

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Wester, et al. :
Application No. 10/475,696 : ON APPLICATION FOR
Filed: May 14, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 1545 WO/US :

This is in response to the PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b), filed June 11, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred eighteen (518) days, not two hundred eighty-nine (289) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under

§ 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management to await receipt of a completed PTOL-85(b) or its equivalent, the issue fee, and the publication fee.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 5, 2009

TO SPE OF : ART UNIT 1654 - Cecilia Tsang

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/475,696 Patent No.: 7,589,061 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

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 1654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 5, 2009

TO SPE OF : ART UNIT 1654 - Cecilia Tsang

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/475,696 Patent No.: 7,589,061 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

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 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Tim A Cheatham
Mallinckrodt Inc
675 McDonnell Boulevard
Po Box 5840
St Louis MO 63134

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APR 23 2010

OFFICE OF PETITIONS

In re Patent of Wester et al. : DECISION ON REQUEST FOR
Patent No. 7,589,696 : RECONSIDERATION OF
Issue Date: September 15, 2009 : PATENT TERM ADJUSTMENT AND
Application No. 10/475,696 : NOTICE OF INTENT TO ISSUE
Filed: May 14, 2004 : CERTIFICATE OF CORRECTION
Attorney Docket No. 1545 WO/US :

This is a decision on the petition filed on September 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred eighteen (518) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred eighteen (518) is **GRANTED to the extent indicated herein**.

In calculating the period of delay under 35 U.S.C. 154(b)(1)(B) ("B Delay"), patentees indicate the period of delay began on May 14, 2007,the date that is three years after the date of completion of all 35 U.S.C. 371 requirements, and ended on February 13, 2008, the date a Request for Continued Examination ("RCE") was filed. From this 274 day period of B delay, patentees subtracted 45 days of overlapping A and B delay, from August 26, 2007 to October 9, 2007, to arrive at 229 days of B delay.

However, in an international application, the B period of delay is based on the failure of the Office to issue a patent within three years after the national stage commences under 35 U.S.C. 371(b) or (f). *See* 1.702(b). The national stage commenced in this application on October 23, 2003.

In addition, unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was filed February 13, 2008.
Per 35 U.S.C. 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)."

The period of B Delay in this case is 432 days, which is 477 days beginning on October 24, 2006, the day after the date three years after the commencement date, and ending on February 12, 2008, the day before the date the RCE was filed, reduced 45 days of overlapping A and B delay, from August 26, 2007 to October 9, 2007. *See* 1.703(b).

Therefore, correct patent term adjustment is 721 days, which is the sum of 360 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 432 of B Delay and reduced by 71 days for patentees' delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Pursuant to patentees' authorization, deposit account no. 13-1160 will be charged the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred twenty-one (721)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,589,061 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Wester et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 289 days

Delete the phrase "by 289 days" and insert – by 721 days--

14 JUN 2006

#5

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GUDRUN E. HUCKETT DRAUDT
LONSSTR. 53
WUPPERTAL, 42289
GERMANY

In re Application of: Josef Freihart	:	
Application No.: 10/475,727	:	
PCT Application No.: PCT/EP02/02106	:	DECISION ON
Int. Filing Date: 27 February 2002	:	PETITION UNDER
Priority Date Claimed: None	:	37 CFR 1.181
Attorney Docket No.: 203113	:	
For: METHOD AND DEVICE FOR COMPRESSING	:	
SQUARE BALES FOR STALK MATERIAL	:	

This decision is in response to a "Letter in Response to Notification of Abandonment" filed on 19 April 2006, which has been treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition is **GRANTED**.

BACKGROUND

On 12 May 2004, a Notification of Missing Requirements (PCT/DO/EO/905) was mailed to the applicant, requiring the submission of an executed oath or declaration of the inventor and setting a time period of 32 months from the priority date or 2 months from the date of the notice, whichever expires later, within which to submit the missing requirement.

On 10 April 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to the applicant, indicating that this application had become abandoned with respect to the national stage in the United Sates for failure to timely reply to the Notification of Missing Requirements.

On 19 April 2006, applicant filed the instant facsimile response accompanied by, *inter alia*, an executed declaration of the inventor.

DISCUSSION

Applicant provides sufficient evidence that a proper response to the Notification of Missing Requirements, in the form of an executed declaration of the inventor, was timely filed

by being transmitted to the United Sates Patent and Trademark Office on 01 July 2004. The proof is of the form of a copy of a "Letter in Response to Missing Parts Notification" bearing a Certificate of Transmission dated 01 July 2004, along with a statement by counsel which attests on a personal knowledge basis to the previous transmission and a copy of the sending unit's report confirming transmission of a "Letter in Response to Missing Parts Notification" on 01 July 2004. The copy of the transmitted documents includes an executed declaration of the inventor, which is referenced in the "Letter in Response to Missing Parts Notification." In view of the Certificate of Transmission and counsel's statement that a copy of the previously transmitted declaration is attached, along with the fax transmission report, the copy of the declaration may properly be accepted as having been timely filed on 01 July 2004.

The holding of abandonment is hereby **WITHDRAWN** and the Notification of Abandonment (Form PCT/DO/EO/909) mailed 10 April 2006 is hereby **VACATED**.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**. The copy of the declaration of the inventor filed on 19 April 2006 is hereby accepted as having been timely filed in response to the Notification of Missing Requirements mailed on 12 May 2004.

The application has an International Filing Date under 35 U.S.C. 363 of 27 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 01 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.

John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 6300
SEATTLE, WA 98104-7092

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Aloys Wobben :
Application No. 10/475,731 : DECISION GRANTING PETITION
Filed: May 10, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 970054.447USPC :

This is a decision on the petition, filed December 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

10/475731

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/21/06

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,965,174

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:

_____

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SPE

2834
Art Unit

10 NOV 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Oliff & Berridge PLC
PO Box 19928
Alexandria, VA 22320

In re Application of	:	
KAZUO, Aoki et al.	:	
Application No.: 10/475,770	:	DECISION ON
PCT No.: PCT/JP02/13604	:	
Int. Filing Date: 26 December 2002	:	PETITION
Priority Date: 26 December 2001	:	
Attorney Docket No.: 117306	:	UNDER 37 CFR 1.181
For: HYBRID VEHICLE DRIVE ...	:	
AND PROGRAM THEREOF	:	

This decision is in response to applicant's "Petition Under 37 CFR §1.181," filed on 07 October 2004.

BACKGROUND

On 26 December 2002, applicant filed international application PCT/JP02/13604, claiming a priority date of 26 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 July 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 28 June 2004.

On 23 October 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 23 January 2004, applicant submitted a letter, accompanied by an executed declaration and a statement that it was a copy of a declaration filed on 23 October 2003.

On 24 June 2004, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of 23 January 2004.

On 07 October 2004, applicant submitted the instant petition under 37 CFR 1.181, accompanied by a postcard receipt, a copy of an executed declaration and a copy of the filing receipt.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by inventor and docket number, stamped 23 October 2003 and listing a declaration. This is adequate evidence that the listed item was received by the Office on 23 October 2003. Applicant indicates that the enclosed declaration is a true copy of the 23 October 2003 submission and the statement is signed by someone registered to practice before the Office. The declaration is accepted as having been received on 23 October 2003.

The declaration submitted on 23 October 2003 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notice of Acceptance mailed 24 June 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 23 October 2003.

Erin M. Pender

Erin M. Pender
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08 JUN 2004

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PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of DUPINAY et al :
U.S. Application No.: 10/475,778 :
PCT Application No.: PCT/FR02/01421 :
Int. Filing Date: 25 April 2002 : DECISION
Priority Date Claimed: 25 April 2001 :
Attorney Docket No.: 3493-0122P :
For: MEDICINAL TABLET WITH PROLONGED :
RELEASE OF THE ACTIVE PRINCIPLE :

This is in response to applicant's "Letter" filed 05 May 2004, including a copy of an executed declaration. The letter is being treated as a petition under 37 CFR 1.181 to treat the declaration as having been originally filed on 23 January 2004. No petition fee is due.

BACKGROUND

On 25 April 2002, applicant filed international application PCT/FR02/01421, which claimed priority of an earlier France application filed 25 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 31 October 2002. The thirty-month period for paying the basic national fee in the United States expired on 25 October 2003.

On 23 October 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, applicant filed a declaration executed by three inventors.

On 10 March 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 the third inventor listed on the declaration does not appear either in the published international application or on a Notification of the Recording of a Change (Form PCT/IB/306) in the application file.

On 05 May 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

As is apparent from the language in the Notification of Missing Requirements, receipt of the declaration on 23 January 2004 is not in dispute. Rather, applicant has not established that the third listed inventor is properly named on the declaration.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED AS MOOT.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) to await a proper response to the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905).

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

SIMPSON & SIMPSON, P.L.L.C.
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

In re Application of :
Baxter et al. :
Application No. 10/475,780 : ON PETITION
Filed: October 23, 2003 :
Attorney Docket No. IPCP: 101_US_ :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2008, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed September 26, 2007, which set a shortened statutory period for reply of three (3) months. A reply was due on or before December 26, 2007. A Notice of Abandonment was mailed on April 21, 2008.

Petitioner claims that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on October 12, 2007 of 1. Amendment Transmittal Letter; 2. Amendment and Request for Reconsideration; (3) Certificate of mailing by First Class Mail; and (4) Acknowledgement Postcard. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of October 10, 2007.

The reply acknowledged as having been received in the USPTO on October 12, 2007 (certificate of mailing date of October 10, 2007) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The petition to revive under 37 CFR 1.137(b) is hereby dismissed as moot.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the small entity $770.00 petition fee submitted with the 1.137(b) will be credited to petitioner's Deposit Account as previously authorized.

This matter is being referred to Technology Center AU 2132 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

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32ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence et al.	:	DECISION ON PETITION TO
Application No. 10/475,783	:	WITHDRAW HOLDING OF
Filed: 10/23/2003	:	ABANDONMENT
Attorney Docket No. 03920	:	

This is a decision on the "PETITION TO WITHDRAW THE NOTICE OF ABANDONMENT WHICH WAS IMPROPERLY ISSUED IN THIS CASE AND REQUEST TO ENTER THE JUNE 30, 2006 RESPONSE," filed on 16 February, 2007, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 16 June, 2006, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on 16 January, 2007.

Petitioners assert that a response including an amendment in response to the Notice were timely filed by facsimile on 30 June, 2006. In support, petitioners have supplied a copy of the response and the amendment. The reply includes cover letter itemizing the filing of the response and amendment, which contains Certificate Under 37 CFR 1.8 dated 30 June, 2006, signed by petitioners' counsel, A. Blair Hughes. Petitioners have also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing eight (8) pages, including the transmittal letter, a copy of which is supplied, were received at the USPTO on 30 June, 2006.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting on personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission (*see* 37 CFR 1.8 and MPEP 512).

As petitioners have provided convincing evidence that a reply to the final Office action was transmitted to the USPTO on 30 June, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The application is being referred to Technology Center Art Unit 1772 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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In re Application of	:	
Lawrence et al.	:	DECISION ON APPLICATION
Application No. 10/475,783	:	FOR
Filed: October 23, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 03920	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 16, 2008. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to one hundred sixty (160) days, including 264 days of applicant delay and 424 days of Office delay.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred seventy **(170)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 18, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed on May 16, 2008[1]. The specific basis for applicants' assertion is 37 C.F.R. §1.702(a)(2). Applicants assert that the Office failed to take action within

[1] PALM records indicate that the Issue Fee was received on May 21, 2008.

four months of their filing of a response on June 30, 2006. The response was faxed to the Office on that date, but not made of record by the Office. The Office abandoned the application. On May 16, 2007, the abandonment was rescinded by the Office; however, the response was treated as filed on February 15, 2007, not June 30, 2006. Consequently, no Office delay was entered for the Office taking until July 9, 2007 to act in response. Applicants maintain that, using the June 30, 2006 date of receipt rather than the February 15, 2007 date of receipt, their delay should reduced by 230 days from 494 days to 264 days. Further, given the filing of the response on June 30, 2006, the Office's delay should be calculated as 242 days, not 24 days (for the period from October 30, 2006 to July 9, 2007).

Applicants state that the application is not subject to a terminal disclaimer.

Applicants' arguments and evidence are persuasive. The record supports a conclusion that the reply was received in the Office on June 30, 2006. See also decision on petition mailed May 16, 2007. June 30, 2006 and not February 15, 2007 (the date of resubmission of the response on petition) should be used for purposes of calculating Office delay. Thus, the entry of a period of adjustment of 24 days for this Office delay is incorrect and is being removed. However, the correct period of Office delay is 252 days not 242 days (for the period from October 30, 2006 to July 9, 2007, the date of the Office's mailing of a restriction requirement in response).

Likewise, June 30, 2006 and not February 15, 2007, should be used in calculating applicant delay, pursuant to 37 C.F.R. § 1.704(c)(7). The entry of a period of reduction of 329 days for filing the reply on February 15, 2007 is not warranted and is being removed. 37 C.F.R. §1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, a response containing an omission was filed on March 23, 2006. See Notice of Informal or Non-compliant Amendment mailed June 16, 2006. In response, applicant filed

the paper correcting the omission on June 30, 2006. Accordingly, a period of reduction of 99 days, pursuant to 37 C.F.R. § 1.704(c)(7), should have been entered (for the period beginning on March 24, 2006 and ending on June 30, 2006).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED SEVENTY **(170)** days, including 264 days of applicant delay and 434 days of Office delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PTA Calculations for Application: 10/475783			
Application Filing Date:	10/23/2003	PTO Delay (PTO):	206
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	494
Post-Issue Petitions:	0	Total PTA (days):	170
PTO Delay Adjustment:	458		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	06/13/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		99	
72	06/13/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	329		
71	06/13/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		24	
70	06/13/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	252		
59	03/18/2008	MAIL NOTICE OF ALLOWANCE			
58	03/12/2008	ISSUE REVISION COMPLETED			
57	03/12/2008	DOCUMENT VERIFICATION			
56	03/12/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	03/12/2008	EXAMINER'S AMENDMENT COMMUNICATION			
54	03/12/2008	NOTICE OF ALLOWABILITY			
53	02/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	02/19/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	50
51	03/11/2008	DATE FORWARDED TO EXAMINER			
50	02/19/2008	RESPONSE AFTER NON-FINAL ACTION		64	45
49	02/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	02/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	10/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
46	10/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
45	09/17/2007	MAIL NON-FINAL REJECTION			
44	08/24/2007	NON-FINAL REJECTION			
43	08/01/2007	DATE FORWARDED TO EXAMINER			
42	07/31/2007	RESPONSE TO ELECTION / RESTRICTION FILED			

41	07/09/2007	MAIL RESTRICTION REQUIREMENT	24		37
40	07/06/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
39	07/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
38	05/25/2007	DATE FORWARDED TO EXAMINER			
37	02/15/2007	RESPONSE TO ELECTION / RESTRICTION FILED		329	28
36	05/21/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
35	05/20/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
34	05/16/2007	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
33	02/15/2007	PETITION ENTERED			
32	01/16/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
31	01/08/2007	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
30	06/16/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
29	03/28/2006	DATE FORWARDED TO EXAMINER			
28.1	03/23/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
28	03/23/2006	RESPONSE TO ELECTION / RESTRICTION FILED		16	25
27	03/13/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
26	03/09/2006	DATE FORWARDED TO EXAMINER			
25.1	03/07/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
25	03/07/2006	RESPONSE TO ELECTION / RESTRICTION FILED		85	21
24	02/22/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
23	04/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	12/14/2005	DATE FORWARDED TO EXAMINER			
21.1	12/12/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
21	12/12/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
20	11/15/2005	MAIL RESTRICTION REQUIREMENT			
19	11/14/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
18	08/16/2005	DATE FORWARDED TO EXAMINER			
17	08/08/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
16	08/08/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			

15	04/15/2004	REFERENCE CAPTURE ON IDS			
14.7	04/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	10/23/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	10/23/2003	PRELIMINARY AMENDMENT			
11	06/23/2005	MAIL RESTRICTION REQUIREMENT	182		-1
10	06/22/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
9.7	07/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8.7	05/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	05/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	03/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
5	03/02/2004	CLEARED BY OIPE CSR			
4	10/23/2003	371 COMPLETION DATE			
3	02/24/2004	APPLICATION DISPATCHED FROM OIPE			
2	02/24/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	10/23/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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6-27-08

Patent No. : 7,347,423
Inventor(s) : Hannu Trygg, et. al.
Issued : March 25, 2008
Title : ARRANGEMENT IN CONNECTIONWITH MECHANICAL SEAL
Docket No. : 4465/306048

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

In view of the foregoing, your request is hereby denied.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

ej

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OFFICE OF PETITIONS

In re Application of :
Daniel et al. :
Application No. 10/475806 :
Filing or 371(c) Date: 10/24/2003 : ON PETITION
Attorney Docket Number: 82332 :

This is a decision on the Petition for Revival of Application for patent Abandoned Unavoidably, filed January 5, 2007. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 19, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on August 21, 2006, and supplemented the reply on September 21, 2006[1] with a Rule 1.132 Declaration; however, the reply was unacceptable. Applicant was so notified in an Advisory Action mailed November 9, 2006. No timely and proper reply having been received, the application became abandoned on July 20, 2006. A Notice of Abandonment was mailed March 21, 2007.

The present petition

Applicant files the present petition and submits that the abandonment of the application was because the Examiner did not timely receive the Declaration; Applicant's belief that the

[1] Office records indicate that the required one (1) month extension of time fee was not charged at that time.

Declaration would result in allowance of the application, and Applicant not filing a Notice of Appeal.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks items (**1**) and (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**1**), Applicant asserts that a continuing application has been filed; however, Office records do not indicate that a continuing application has been filed, nor has Applicant provided the application no. of the continuing application.

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Analysis

Applicant here asserts that the delay in responding to the Office action was unavoidable because the Examiner did not timely receive the Declaration; Applicant's belief that the

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[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Declaration would result in allowance of the application, and Applicant not filing a Notice of Appeal. Howevern Applicant has not demonstrated that timely receipt of the Declaration would have resulted in allowance. Contrariwise, and despite Applicant's belief, the Declaration failed to place the application in condition for allowance. Applicant admits that he failed to file a Notice of Appeal; however, Applicant has not demonstrated why the failure to file a Notice of Appeal was unavoidable. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

37 CFR 1.135(b) provides that

> Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Conclusion

Applicant has failed to demonstrate that a complete and proper reply was filed, and that the failure to timely and properly reply to the Office action was unavoidable.

The one (1) month extension of time fee required to file the Supplemental Response After Final Office Action, filed September 21, 2006, has been charged to deposit account 14-0112 as authorized in the Transmittal Form filed with the Supplemental Response.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Applicant must also demonstrate the filing of a timely and proper reply (the continuing application).

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

Nath & Associates
Sixth Floor
1030 Fifteenth Street NW
Washington, DC 20005

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
Daniel et al. :
Application No. 10/475806 :
Filing or 371(c) Date: 10/24/2003 : ON PETITION
Attorney Docket Number: 82332 :

This is a decision on the Petition for Revival of Application for patent Abandoned Unintentionally, filed May 29, 2007. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 19, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on August 21, 2006, and supplemented the reply on September 21, 2006 with a Rule 1.132 Declaration; however, the reply was unacceptable. Applicant was so notified in an Advisory Action mailed November 9, 2006. No timely and proper reply having been received, the application became abandoned on July 20, 2006. A Notice of Abandonment was mailed March 21, 2007.

The January 5, 2007 petition to revive under 37 CFR 1.137(a)

Applicant filed a petition to revive under 37 CFR 1.137(a) on January 5, 2007, wherein Applicant asserted that the abandonment of the application was because the Examiner did not timely receive the Declaration; Applicant's belief that the Declaration would result in allowance of the application, and Applicant not filing a Notice of Appeal.

The petition was dismissed in a Decision mailed April 27, 2007. The Decision dismissing the petition informed Applicant that the Declaration failed to place the application in condition for allowance, and that Applicant failed to file a Notice of Appeal, nor had Applicant demonstrated that the failure to file a Notice of Appeal was unavoidable.

The present petition

Applicant files the present petition and a fee; however, no complete and proper reply to the Office action has been filed.

Applicable law

As provided in 37 CFR 1.137(b):

> A grantable petition pursuant to this paragraph must be accompanied by:
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in § 1.17(m);
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:
(A) a Notice of Appeal and appeal fee;
(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or
(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).
When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 41.37 for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

Analysis and conclusion

Applicant has failed to file the reply to the outstanding Office action. The petition is dismissed.

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 petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Nath & Associates
Sixth Floor
1030 Fifteenth Street NW
Washington, DC 20005

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
Daniel et al. :
Application No. 10/475806 :
Filing or 371(c) Date: 10/24/2003 : ON PETITION
Attorney Docket Number: 82332 :

This is a decision on the correspondence filed September 13, 2007[1] Petition for Revival of Application for patent Abandoned Unintentionally, filed May 29, 2007. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 19, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on August 21, 2006, and supplemented the reply on September 21, 2006 with a Rule 1.132 Declaration; however, the reply was unacceptable. Applicant was so notified in an Advisory Action mailed November 9, 2006. No timely and proper reply having been received, the application became abandoned on July 20, 2006. A Notice of Abandonment was mailed March 21, 2007.

Applicant files a petition to revive the application based upon unintentional abandonment on September 20, 2007, and the petition fee; however, no complete and proper reply to the Office action was filed.

The petition was dismissed in a Decision mailed September 20, 2007.

Applicant files the present petition and Notice of Appeal. 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

[1] The correspondence was filed in request to a telephone conference between the undersigned and the attorney of record for this application. A Decision dismissing a petition to revive the application under 37 CFR 1.137(b) was mailed on September 20, 2007. The mailing of the Decision occurred on or about the same time as the correspondence was entered into the Image File Wrapper ("IFW") system (but after the actual filing date of the correspondence). The correspondence is therefore being treated as a renewed petition.

in the form of a Notice of Appeal and fee; (2) the petition fee (previously submitted); and (3) the required statement of unintentional delay (previously submitted)[2]. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 2617 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
Attorney
Office of Petitions

[2] 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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29 OCT 2003

Robert W. Becker
Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of :
WIEJACK-SYMANN, et al. :
U.S. Application No.: 10/475,817 : DECISION ON PETITION
PCT No.: PCT/DE01/01200 :
Int. Filing Date: 28 March 2001 : UNDER 37 CFR 1.137(b)
Priority Date: 22 April 2000 :
Attorney Docket No.: RAG 15505-WO-US :
For: DRAG CHAIN CONVEYOR FOR USE IN :
UNDERGROUND MINING :

The petition to revive under 37 CFR 1.137(b) filed 22 October 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the above-identified application from the due date for the national stage 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 returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **22 October 2003**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

01 FEB 2005

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Quarles & Brady Streich Lang
One South Church Avenue
Suite 1700
Tucson, Arizona 85701

In re Application of :
DJENNATI et al. :
Application No.: 10/475,829 : DECISION ON PETITION
PCT No.: PCT/GB02/01953 :
Int. Filing Date: 29 April 2002 :
Priority Date: 27 April 2001 :
Attorney Docket No.: 6051.020 :
For: APPARATUS AND METHOD FOR ANALYSING A FLUID

This decision in response to applicants' "Petition under 37 CFR 1.181 to Revive Application and Accept Applicant's Declaration and Power of Attorney" filed 21 December 2004, which is being treated as a petition under 37 CFR 1.181(a). No petition fee is required.

BACKGROUND

On 29 April 2002, applicants filed international application PCT/GB02/01953 which claimed a priority date of 27 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 November 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 27 October 2003.

On 24 October 2003, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee and a copy of the international application.

On 27 February 2004, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 21 December 2004, applicants filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 19 March 2004; post card receipt dated 19 March 2004; and a copy of an assignment.

DISCUSSION

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 19 March 2004. A review of the present application reveals that the declaration and power of attorney filed 19 March 2004 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and attorney docket number. The receipt itemizes declarations executed by the joint-inventors. The receipt is stamped "Rec'd. PCT/PTO 19 MAR 2004" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 19 March 2004.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 29 April 2002 and a date of **19 March 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.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/22/2010

Applicant	: Albert Stanley Tyms	: DECISION ON REQUEST FOR
Patent Number	: 7601735	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/475,830	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1220** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 05/18/2010

Applicant : Albert Stanley Tyms
Patent Number : 7601735
Issue Date : 10/13/2009
Application No: 10/475,830
Filed : 03/09/2004

: 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 **1318** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Risto Kauppinen et al	:	
Application No. 10/475,832	:	DECISION GRANTING PETITION
Filed: October 24, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60282.00124	:	

This is a decision on the petition, filed February 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 9, 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 2687 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\Feb9\475832.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

22 JUL 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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22850
OBLON, SPIVAK, McCLELLAND, MAIER &
NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
OHKI, Hidenori *et al* :
U.S. Application No.: 10/475,845 :
PCT No.: PCT/JP02/04058 :
Int. Filing Date: 24 April 2002 :
Priority Date: 01 May 2001 :
Attorney Docket No.: 244740US0X PCT :
For: CEPHEM COMPOUNDS :

DECISION

UNDER

37 CFR 1.42

This decision is in response to declaration submitted on 17 June 2004 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 17 March 2004, a Notification of Missing Requirements was mailed indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit was set for response.

On 17 June 2004, applicant filed a "Response to Notification of Missing Requirements" which was accompanied by, *inter alia*, an executed declaration and a one-month extension and $110.00 fee.

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 nine of the ten listed joint inventors and by Hitomi Ogino, Tetsuya Ogino and Tomomi Takezawa as legal representatives for the deceased joint inventor, Takashi Ogino.

The citizenship, residence and address of all the joint inventors (including the deceased inventor) are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). In addition, the citizenship, residence and address of the three legal

representatives are recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

This declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 April 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 June 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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AUG 29 2007

OFFICE OF PETITIONS

GALLAGHER & DAWSEY CO., L.P.A.
P.O. BOX 785
COLUMBUS, OH 43216

In re Application of :

GORROCHATEGUI BARRUETA, Alberto et al. :
Application No. 10/475,866 : DECISION ON PETITION
Filed: October 24, 2003 : TO WITHDRAW
Attorney Docket No. **Drbt-030619.001** : 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 05, 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 Michael J. Gallagher on behalf of all attorneys of record who are associated with customer No. 34142. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the second named inventor Josu Simon Elizundia at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **JOSU SIMON ELIZUNDIA**
C/ JAEN, 101 B.
BILBAO, 48012
SPAIN

cc: **ALBERTO GORROCHATEGUI BARRUETA**
GENERAL EGUIA NO. 1, 1
BILBAO, 48010
SPAIN

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/475,866	10/24/2003	Alberto Gorrochategui Barrueta	Drbt-030619.001

CONFIRMATION NO. 6491

OC000000025548382

34142
GALLAGHER & DAWSEY CO., L.P.A.
P.O. BOX 785
COLUMBUS, OH 43216

Date Mailed: 08/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/05/2007.

- 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.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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JUL 0 6 2005

OFFICE OF PETITIONS

Applicant: Green et al.
Appl. No.: 10/475,876
International Filing Date: April 24, 2002
Title: FOLATE MIMETICS AND FOLATE-RECEPTOR BINDING CONJUGATES THEREOF
Attorney Docket No.: 290.00260101
Pub. No.: US 2004/0242582 A1
Pub. Date: December 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on December 15, 2004, for the above-identified application.

The request is granted.

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

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27 SEP 2006

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

In re Application of	:	
LUBITZ, Werner et al.	::	
U.S. Application No.: 10/475,880	:	DECISION ON
PCT No.: PCT/EP02/04464	:	
Int'l Filing Date: 23 April 2002	:	PETITION
Priority Date: 24 April 2001	:	
Attorney's Docket No.: 2923-0578	:	UNDER 37 CFR 1.181
For: EXOPOLYSACCHARIDE PRODUCTION	:	

Applicants filed "Request For Corrected Filing Receipt," on 30 June 2006. The Request has been treated as a petition under 37 CFR 1.181.

As set forth in MPEP 1893.03(b), the filing date of a national phase of a PCT is the international filing date. The date that appears in the "filing or 371(c) date" field of the filing receipt is the date of completion of the 35 U.S.C. §371 (c)(1), (c)(2) and (c)(4) requirements. Applicants completed the 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) requirements on 24 October 2003, as indicated. MPEP 1893.03(b). The postcard receipt dated 22 April 2004 is for a response to the Notice to Comply With Requirements For Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which is not a factor in the 35 U.S.C. §371 (c)(1), (c)(2) and (c)(4) date.

For the above reasons, the Petition Under 37 CFR 1.181 is **DISMISSED** without prejudice. Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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PATENT DEPARTMENT
TAYLOR, PORTER, BROOKS &
PHILLIPS, L.L.P
P.O. BOX 2471
BATON ROUGE, LA 70821-2471

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
Andrew McCaddon :
Application No. 10/475,898 : ON APPLICATION FOR
Filed: April 12, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No.MCCADDON03MCC01-US :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed January 21, 2010. Applicant submits that the patent term adjustment to be indicated on the patent is eight hundred sixty-seven (867) days, not four hundred eighty-two (482) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on March 19, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Cooper & Dunham
1185 Avenue of the Americas
New York NY 10036

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JAN 25 2006

OFFICE OF PETITIONS

Applicant: Olsen et al.
Appl. No.: 10/475,944
Filing Date: April 22, 2002
Title: SYSTEM AND METHOD FOR THE MEASUREMENT OF THE LAYER THICKNESS OF A MULTI-LAYER PIPE
Attorney Docket No.: 1175/71247
Pub. No.: US 2004/0234027 A1
Pub. Date: November 25, 2004

This is a decision on the requests for a corrected patent application publication under 37 CFR 1.221(b), received on March 21, 2005, May 31, 2005 and September 12, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished.

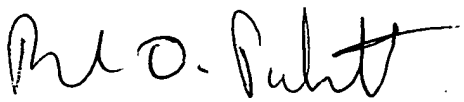
37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on March 21, 2005, 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.

The instant request does not point out any alleged errors in the publication. It would greatly benefit the Office if applicant pointed out the alleged errors in the publication. A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

12 MAR 2004

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Richard L. Byrne
700 Koppers building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

In re Application of
DE JONG
U.S. Application No.: 10/475,947
PCT No.: PCT/NL02/00085
Int. Filing Date: 06 February 2002
Priority Date: 06 February 2001
Attorney Docket No.: 0702-031654
For: DIVIDING DEVICE

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 October 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "The delay in entering the national phase was unintentional" is being interpreted to mean that the entire delay in filing the National stage application from the due date for filing the National stage application until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement 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. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

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 **27 October 2003**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

05 APR 2004

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Gavin J. Milczarek-Desai
DURANDO BIRDWELL & JANKE, PLC
2929 E. Broadway Blvd.
Tucson, AZ 85716

In re Application of	:	
COHEN, Emanuel *et al*	:	
U.S. Application No.: 10/475,955	:	**DECISION ON**
PCT No.: PCT/GB02/01135	:	**PETITION FOR REVIVAL**
Int. Filing Date: 13 March 2002	:	**UNDER 37 CFR 1.137(b)**
Priority Date: 14 March 2001	:	
Attorney Docket No.: 6051.019	:	
For: MAGNETIC SCANNING APPARATUS	:	

Applicants' "Petition to Revive Pursuant to 37 CFR 1.137(b)" filed with the national stage papers on 24 October 2003 is hereby **GRANTED** as follows:

The appropriate basic national fee, surcharge fee and petition fee for a small entity have been paidp
. Applicants state that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $65.00 was submitted with the national stage papers on 24 October 2003. The application has an international filing date of 13 March 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c4) date of 24 October 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

#6

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Sarah B. Adriano
Mandel & Adriano
55 South Lake Avenue, Suite 710
Pasadena, CA 91101

In re Application of	:	
ROTHMAN, et al.	:	
U.S. Application No.: 10/475,967	:	DECISION ON PETITION
PCT No.: PCT/DE02/01483	:	
Int. Filing Date: 23 April 2002	:	UNDER 37 CFR 1.182
Priority Date: 23 April 2001	:	
Attorney's Docket No.: 30854.2USWO	:	
For: BUFFER SOLUTION FOR ELECTRO-PORATION AND A METHOD COMPRISING THE USE OF THE SAME	:	

This decision is in response to applicant's "Communication For Inventor Changes Name And Petition Under 37 C.F.R. §1.182" filed 21 July 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 January 2004, applicant filed an executed combined declaration and power of attorney.

On 22 June 2004, applicant was mailed a "Notification of Defective Response " indicating that the 6th listed inventor's name was different on the declaration than the name on the published international application. Applicant was afforded one month to file a proper reply.

On 21 July 2004, applicant filed the present petition accompanied by an affidavit executed by the inventor explaining her change in name.

DISCUSSION

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; namely by marriage. The declaration is executed by Mrs. Rothman-Cosic using her current married name and her maiden name. As such, it is appropriate to grant applicant's petition at this time. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Kirsten Rothmann to Kirsten Rothmann-Cosic is **GRANTED**.

The application has an international filing date of 23 April 2002 under 35 U.S.C. 363 and will be given a date of **08 January 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

29 MAR 2004

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EDWARD YOO C/O BENNETT JONES
1000 ATCO CENTRE
10035 - 105 STREET
EDMONTON ALBERTA, CANADA T5J3T-2

In re Application of GINGRAS et al	:	
U.S. Application No.: 10/475,978	:	
PCT Application No.: PCT/CA02/00332	:	DECISION
Int. Filing Date: 07 March 2002	:	
Priority Date Claimed: 07 March 2001	:	
Attorney Docket No.: 45220.21	:	
For: AUGER CLEANING OF SOLIDS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 27 October 2003.

BACKGROUND

On 07 March 2002, applicant filed international application PCT/CA02/00332, which claimed priority of an earlier United States application filed 07 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 07 September 2003.

International application PCT/CA02/00332 became abandoned as to the United States for failure to timely pay the basic national fee.

On 27 October 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 11, 2006

TO SPE OF : ART UNIT 3683

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/475996 Patent No.: 7,063,308 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JAMES MCCLELLAN
~~SUPERVISORY PATENT EXAMINER~~
SPE

3683
Art Unit

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Georg Suss-Fink et al :
Application No. 10/476,025 :
Filed: October 27, 2003 :
Attorney Docket No. LP-1921 :

This is a decision on the petition, filed October 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : October 22, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/476,025

Applicant(s) :Georg Suss-Fink et al
Application No. :10/476,025
Filed :October 27, 2003

The above-identified application has been assigned Patent No. 6,815,564 and an issue date of November 9, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 9, 2004:

"All reference to Patent No. 6,815,564 to Georg Suss-Fink et al of Switzerland for PROCESS FOR THE PRODUCTION OF KETONES appearing in the Official Gazette of November 9, 2004 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

20 SEP 2004

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Edward A. Pennington
Swidler Berlin Shereff Friedman LLP
3000 K St., NW, Suite 300
Washington, DC 20007

In re Application of	:	
Karlsson et al.	:	
Application No. 10/476,026	:	
PCT No.: PCT/SE02/00775	:	
Int. Filing Date: 22 April 2002	:	DECISION
Priority Date: 26 April 2001	:	
Atty. Docket No.: 19387.3098	:	
For: A Method And A Device For	:	
Transferring A Leader In A Plant For	:	
Drying Of A Web-Formed Material	:	

This is in response to the "Response To Notification Of Missing Response" filed on 16 August 2004.

BACKGROUND

This international application was filed on 22 April 2002, designated the United States, and claimed an earlier priority date of 26 April 2001. The International Bureau communicated a copy of the published international application to the USPTO on 07 November 2002. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 27 October 2003 (since 26 October 2003 was a Sunday).

On 27 October 2003, applicant filed *inter alia* the basic national fee.

On 16 March 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.

On 02 April 2004, applicants filed a response to the Notification of Missing Requirements.

On 07 May 2004, a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the "Name of first inventor on the published IA appears as Ingemar KARLESSON and on the declaration signed as Ingemar RYDELL. Proper PCT/IB/306 is needed of such a change."

DISCUSSION

Inspection of the declaration filed on 02 April 2004 reveals that it names a joint

inventor, Ingemar Rydell, whose name does not appear in the published international application, and inspection of the published international application reveals that it names a joint inventor, Ingemar Karlsson, whose name does not appear in the declaration filed on 02 April 2004. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required to resolve this matter. Such a petition must be accompanied by the $130.00 petition fee and by verified statements by the inventor and any other individuals having first-hand knowledge of the error. In this regard, the instant submission is being treated as a petition under 37 CFR 1.182, and the $130.00 petition fee is being charged to counsel's Deposit Account No. 19-5127.

It is noted that the instant "Response..." is accompanied by a "Declaration" signed by Ingemar Rydell and stating that he "changed my last name from Karlsson to Rydell on October 1, 2002." On the basis of this evidence, it would be appropriate to grant the petition under 37 CFR 1.182. However, it is also noted that the declaration filed on 02 April 2004 is defective in that it appears to have been compiled from individual sheets taken from declarations signed by each of the joint inventors; therefore, it is unclear whether each inventor signed a complete declaration.

CONCLUSION

The petition is **GRANTED** to the extent described above.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision (extendable under 37 CFR 1.136(a)) to file an acceptable oath or declaration as described above. Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
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(571) 273-0459

02 MAY 2005

#8

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Washington, DC 20007

In re Application of	:	
Karlsson et al.	:	
Application No. 10/476,026	:	
PCT No.: PCT/SE02/00775	:	
Int. Filing Date: 22 April 2002	:	DECISION
Priority Date: 26 April 2001	:	
Atty. Docket No.: 19387.3098	:	
For: A Method And A Device For Transferring A Leader In A Plant For Drying Of A Web-Formed Material	:	

This is with regard to the "Response To Decision..." filed on 22 November 2004.

DISCUSSION

In a decision mailed on 20 September 2004, the declaration of the inventors filed on 02 April 2004 was found to be defective

> in that it appears to have been compiled from individual sheets taken from declarations signed by each of the joint inventors; therefore, it is unclear whether each inventor signed a complete declaration.

The instant response is accompanied by a newly executed declaration of the inventors which is in compliance with the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration is **ACCEPTED** under 37 CFR 1.497(a) and (b).

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 November 2004**.

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26 MAR 2004

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#3

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In re Application of	:	
ANDINO, Rafael et al.	:	
Application No.: 10/476,030	:	
PCT Application No.: PCT/EP02/04649	:	DECISION ON
International Filing Date: 26 April 2002	:	
Priority Date: 27 April 2001	:	PETITION
Attorney Docket No.: CL/V-31975A	:	
For: AUTOMATIC LENS DESIGN AND MANUFACTURING SYSTEM	:	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 United States Patent and Trademark Office (USPTO) on 28 October 2003 is **GRANTED**.

BACKGROUND

On 26 April 2002, applicant filed international application number PCT/EP02/04649. This application claims priority of an American application that was filed on 27 April 2001. A copy of the international application was communicated to the USPTO by the International Bureau on 07 November 2002. The deadline for paying the basic national fee for the United States National Stage was thirty months from the priority date, that is 27 October 2003.

On 28 October 2003, applicant filed, *inter alia*, the petition to revive and authorizations to charge the petition fee and the basic national fee to Deposit Account No. 19-0134.

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 submission of 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). 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 submitted 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 as to the National Stage in the United States of America is **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 a signed oath or declaration of the inventors and the surcharge for filing a late oath or declaration are due.

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In re Application of	:	
SAKAKI et al.	:	
Application No.: 10/476,069	:	DECISION
PCT No.: PCT/JP02/04128	:	
Int. Filing Date: 25 April 2002	:	
Priority Date: 26 April 2001	:	
Attorney Docket No.: 04703/0200175-US	:	
For: NONSPECIFIC HYDRIDIZATION INHIBITORS,	:	
CLINICAL EXAMINATION REAGENTS AND	:	
CLINICAL EXAMINATION METHOD	:	

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" filed in the United States Patent and Trademark Office (USPTO) on 22 April 2004, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 25 April 2002, applicants filed international application PCT/JP02/04128, which designated the United States and claimed a priority date of 26 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 November 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 October 2003 (26 October 2003 being a Sunday).

On 24 October 2003, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 19 March 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 in compliance with 37 CFR 1.497(a)-(b) was required. The Notification set a two-month extendable period for reply.

On 22 April 2004, applicants filed the instant "RESPONSE TO NOTIFICATION OF

MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)", which has been treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a date-stamped postcard receipt and a copy of a declaration of inventors.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 11 February 2004 applicants filed a declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 11 February 2004 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 22 April 2004 is a copy of the declaration originally filed 11 February 2004. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 22 April 2004 may properly be accepted as originally received in the USPTO on 11 February 2004. The NOTIFICATION OF MISSING REQUIREMENTS mailed 19 March 2004 is hereby vacated.

The declaration filed 11 February 2004 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) has been paid.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 19 March 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

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OFFICE OF PETITIONS

In re Application of :
Charles Glew :
Application No. 10/476,085 : ON PETITION
Filed: October 28, 2003 :
Attorney Docket No. CCG-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is a utility or plant application filed after June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $65 will be refunded to petitioner in due course.

The application file is being referred to Technology Center Art Unit 2831, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Mail Date: 04/21/2010

Applicant	: Robert Rudolph	: DECISION ON REQUEST FOR
Patent Number	: 7628296	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/476,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **644** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
Robert Bayer, et al.	:	
Application No. 10/476,092	:	ON PETITION
Filed: October 24, 2003	:	
Attorney Docket No. IN-5724	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate 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. While a courtesy copy of

this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1714 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Anna M. Budde**
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29 MAR 2004

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In re Application of	:	
BIAGORRI HERMOSO, Julian	:	
Application No.: 10/476,096	:	
PCT Application No.: PCT/ES02/00103	:	DECISION ON
International Filing Date: 08 March 2002	:	
Priority Date: 09 March 2001	:	PETITION
Attorney Docket No.: J443-019US	:	
For: MACHINE FOR MACHINING LARGE PARTS	:	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," filed in the United States Patent and Trademark Office on 24 October 2003 is GRANTED.

BACKGROUND

On 08 March 2002, applicant filed international application number PCT/ES02/00103, claiming priority of an earlier Spanish application, filed on 09 March 2002. The United States of America was designated in the Request. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on Tuesday, 09 September 2003 with the result that the international application became abandoned as to the United States of America on that date.

On 24 October 2003, the present petition to revive was submitted. Applicant has provided, *inter alia*, a petition fee, a translation, an inventor declaration, 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).

With regard to item (1) above, applicant has stated that "[t]he 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." Applicant's statement is satisfactory for meeting the requirements of 37 CFR 1.137(b)(3).

With regard to item (2) above, applicant has provided the basic national fee. Hence, the requirement of item (2) is satisfied. The requirements of 35 USC 371(c)(1) are also therefore met.

With regard to item (3) above, applicant has paid 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 of the requirements under 37 CFR 1.137(b) have been satisfied, and so the petition is granted.

Applicant has provided an inventor declaration and has authorized payment of additional fees, which authorization has been used in order to pay for acceptance of the declaration, meeting the requirements of 35 USC 371(c)(4).

Applicant has provided an application translation, but the translation does not appear to be an exact translation of the international application, as, for example, the published international application has four claims and the translated application has two claims. Therefore, applicant has failed to meet the requirements of 35 USC 371(c)(2).

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to National Stage in the United States of America.

This application has an international filing date of 27 July 2001 under 35 USC 363.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including issuance of a Notice of Missing Requirements FORM PCT/DO/EO/905 (371 Formalities Notice) for failure to provide an exact translation of the international application as required by 35 USC 371(c)(2).

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