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Hui "David" Wang, President
ACM RESEARCH, INC.
4378 Enterprise Street
Fremont, CA 94538

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Yao, et al.	:	
Application No.: 10/486,982	:	ON PETITION
Filed: August 10,2 004	:	
Attorney Docket No: 495152000900	:	

This is in response to the petition under 37 CFR 1.137(b) filed, March 2, 2007.

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 application became abandoned for failure to respond in a timely manner to the non-final Office action mailed July 12, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. No response was received within the allowed period, and the application became abandoned on October 13, 2006.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

The Notice of Appeal filed with the instant petition is not an appropriate response to a non-final Office action. A Notice of Appeal can only be filed after a final Office action. The instant petition cannot be granted because a proper response to the non-final Office action did not accompany the petition. The renewed petition must be accompanied by a proper response to the non-final Office action, which would include either an amendment or a continuing application.

The request for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply. The amount of $510.00 will be refunded, in due course.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

09 SEP 2004

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Louis J. Percello
IBM Corporation
Intellectual Property Law Department
P.O. Box 218
Yorktown Heights, New York 10598

In re Application of	:	
ITOH et al.	:	
Application No.: 10/487,009	:	DECISION ON PETITION
PCT No.: PCT/JP02/07575	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 25 July 2002	:	
Priority Date: 01 August 2001	:	
Attorney Docket No.: JP920010152US1	:	
For: GRAPHIC IMAGE GENERATION APPARATUS, METHOD OF THE SAME AND PROGRAM FOR THE SAME		

The petition to revive under 37 CFR 1.137(b) filed 18 February 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Anthony Smith

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

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#4

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17 JAN 2006

Guerry L Grune
EPATENTMANAGER.COM
784 S Villier Ct
Virginia Beach VA 23452

In re Application of	:	DECISION ON
Little, Brent E.	:	
Application No.: 10/487,011	:	
PCT No.: PCT/US02/33881	:	
Int. Filing Date: 23 October 2002	:	PETITION UNDER
Priority Date: 26 October 2001	:	
Attorney's Docket No.: NA	:	
For: LOW LOSS LATERAL OPTICAL	:	
OPTICAL WAVEGUIDE INTERSECTIONS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 22 November 2005.

BACKGROUND

On 23 October 2002, this international application was filed, claiming an earliest priority date of 26 October 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 26 April 2004. This international application became abandoned with respect to the United States at midnight on 26 April 2004 for failure to pay the required basic national fee.

On 13 February 2004, applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the copy of the international application, and an executed declaration. However, the national basic fee was not provided at such time.

On 15 July 2004, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since the applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 22 November 2005, applicant filed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition fee, the basic national fee, and a new executed declaration.

DISCUSSION

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

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1),(c)(2), and (c)(4) date of this application is **29 November 2005.**

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

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JAN 23 2009

OFFICE OF PETITIONS

In re Application of

Angelo Luckey Chrisostomidis :

Application No. 10/487,015

: DECISION ON PETITION

Filed: February 17, 2004

:

Attorney Docket No. 30035.00

This is a decision on the petition under 37 CFR §1.137(b), October 4, 2007, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 20, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. Accordingly, the application became abandoned on December 21, 2004. A Notice of Abandonment was mailed April 27, 2005

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

A proper response to the non-final Office action did not accompany the petition. A proper response would be in the form of an amendment addressing the objections made by the examiner in the non-final Office action or a continuing application. The renewed petition must be accompanied by a proper response to the non-final Office action.

The address cited on the petition differs from the address of record. A courtesy copy of the decision is being mailed to the address cited on the petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:

Angelo Luckey Chrisostomidis
57 Clarke Street
Hondra, Queensieng 4011

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KNOXVILLE TN 37950-1295

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OFFICE OF PETITIONS

In re Application of

Angelo Luckey Chrisostomidis :

Application No. 10/487,015

: DECISION ON PETITION

Filed: February 17, 2004

:

Attorney Docket No. 30035.00

This is a decision on the renewed petition under 37 CFR §1.137(b), March 23, 2009, to revive the above-identified application.

The petition is **granted**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 20, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. Accordingly, the application became abandoned on December 21, 2004. A Notice of Abandonment was mailed April 27, 2005

The continuing application 11/850,328, filed September 5, 2007, is noted. Continuity between the subject application and the continuing application having been established, the subject application is again abandoned in favor of the continuing application.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES 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
10/487,016		Ard-Jan Moerdijk	P1426-US1

CONFIRMATION NO. 8308

WITHDRAWAL NOTICE

27045
ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

Date Mailed: 02/23/2007

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice of Abandonment mailed on 11/07/2005 was sent in error and is hereby withdrawn. A Filing Receipt is enclosed. The Office regrets any inconvenience the error may have caused.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382
PART 3 - OFFICE COPY

22 JUN 2004

#3

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FISH & RICHARDSON P.C., P.A.
60 South Sixth Street, Suite 3300
Minneapolis, MN 55402

In re Application of
WEST, Theodore *et al*
U.S. Application No.: 10/487,025
PCT No.: PCT/US02/25323
Int. Filing Date: 09 August 2002
Priority Date: 10 August 2001
Attorney Docket No.: 13498-011US1
For: POLYPEPTIDE CONJUGATES WITH EXTENDED CIRCULATING HALF-LIVES

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 17 February 2004 is hereby **GRANTED** as follows:

The basic national fee and petition fee has been paid. Applicants state that "[t]he entire period of delay in filing a National Phase filing of PCT Application No. PCT/US02/25323 from 11 February 2004 until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicants are requested to notify this office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

An oath or declaration was not submitted with the national stage papers.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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#7

16 JUL 2007

Yonghong Chen
AKERMAN SENTERFITT
P.O. Box 3188
West Palm Beach, FL 33402-3188

In re Application of	:
Weisskopf et al	: DECISION ON
US Application No.: 10/487,030	:
PCT Application No.: PCT/DE02/02964	:
Int. Filing Date: 13 August 2002	: PETITION UNDER
Priority Date: 16 August 2001	:
Attorney's File Reference: 3926.073	:
For: LIGHTWEIGHT CRANKSHAFT	: 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 11 September 2006 is **GRANTED**. The petition under 37 C.F.R. 1.181(a) for the withdrawal of the holding of abandonment is **DISMISSED.**

BACKGROUND

On 13 August 2002, applicant filed international application PCT/DE02/02964. The international application claims a priority date of 16 August 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 16 February 2004.

On 17 February 2004, applicant filed a transmittal letter for entry into the national stage in the United States. The transmittal latter was accompanied by a copy of the German language international application, English language translation of the international application, drawings, preliminary amendment, declaration late filing fee of $130, and the basic national fee of $920.These paper were assigned application 10/487,030.

On 21 June 2004, the United States Patent and Trademark office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS" (Form PCT/DO/EO/905) indicating that applicant was required to file oath or declaration in compliance with 37 CFR 1.497 (a) and (b).

On 03 January 2006, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF ABANDOMENT" (Form PCT/DO/EO/909) indicating applicant has failed to timely respond to the Notification of Missing requirements mailed 21 June 2004 and Notice of additional application filing fees mailed 26 July 2004.

On 11 September 2006, 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), a copy of the international application as required by 35 U.S.C. 371(c)(2) (including a Transmittal Letter, Preliminary Amendment, and Translation), an executed declaration, and no petition fee. Applicant has failed to provide the Docketing report of Akerman Senterfitt. Applicant has also failed to show the PTO mailed papers supra were not received by Akerman Senterfitt.

DISCUSSION

A petition to withdraw the holding of abandonment under 37 CFR 1.181 is view of the revised policy published at 1156 OG 53, **Withdrawing the Holding of Abandonment When Office Actions Are Not Received**. The showing required by the notice to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. A copy of the docket record where the non-received Office action would have been enter had it been received and docketed must be attached to and referenced in practitioner's statement. Thus, what the Office now requires, as set forth in the OG notice, are the docket reports for when the response is due. Thus, the required evidence is the docket report for the time period of August 21, 2004 (when the oath or declaration and surcharge was due).

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage. 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.

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 satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "the entire delay in filing this petition and application from the due date for the application under 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). A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements 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.

Applicant has satisfied the filing requirements under 35 U.S.C. 371.Applicant Deposit Account No.50-0951 will be charged the petition fee of $1500 and any other additional filing fee deemed necessary by PCT operations in order to revive the case.

The application has an international filing date of 13 August 2002 under 35 U.S.C. 363 and a date of 11 September 2006 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.

Newton Edwards
PCT Legal Administration Detailee
PCT Special Programs Office
Telephone: 571-272-3279

Leonard Smith
Supervisory PCT Legal Examiner
PCT Legal Office

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Pearne & Gordon LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Arokia Nathan	: DECISION ON REQUEST FOR
Patent Number	: 7573452	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,034	: 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 **1139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 110104

NOV 19 2004

Jennifer M. Brumbaugh
Rader, Fishman & Gauer PLLc
39533 Woodward, Suite 140
Bloomfield Hills, MI 48304

In re Application of:	:	
Lester L. Wegrzecki	:	DECISION ON PETITION
Serial No.: 10/487,035	:	TO MAKE SPECIAL
Filed: February 17, 2004	:	
Attorney Docket No.: **66266-0002**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed February 17,2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a drivers license and declaration from the inventor, Lester L. Wegrzecki, showing that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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

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

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01 FEB 2005

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Carol A. Enger
Hamilton, Brook, Smith & Reynolds
520 Virginia Road
P.O. Box 9133
Concord, MA 01742

In re Application of		
SLOANE et al.	:	
U.S. Application No. 10/487,052	:	
PCT No.: PCT/AU02/01119	:	
Int. Filing Date: 20 August 2002	:	DECISION ON PETITION
Priority Date: 20 August 2001	:	
Attorney Docket No.: 3170.1002-000	:	
For: DIAGNOSTIC TESTING PROCESS AND APPARATUS	:	

This decision is in response to applicants' "Request for Correction of Inventorship under 37 CFR 1.497(d)" filed 14 December 2004. The requisite petition fee has been submitted.

BACKGROUND

On 20 August 2002, applicants filed international application PCT/AU02/01119 which claimed a priority date of 20 August 2001. The international application named: Andrew John Sloane; Andrew Arthur Gooley; and Robert Alan Cole as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 20 February 2004.

On 17 February 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 14 June 2004, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (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 16 August 2004, applicants filed a declaration executed by: Robert Alan Cole and Andrew John Sloane.

On 08 September 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 defective because Andrew Arthur Gooley was not listed on the declaration.

On 14 December 2004, applicants filed a "Request for Correction of Inventorship under 37 CFR 1.497(d)." The declaration submitted with the petition was executed by: Robert Alan Cole; Andrew John Sloane; and William Samuel Hunter.

DISCUSSION

In the instant case, the international application named Andrew John Sloane; Andrew Arthur Gooley; and Robert Alan Cole as applicants/inventors. Applicants request to delete Andrew Arthur Gooley and add William Samuel Hunter as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1),(2), (3) and(4).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have 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 20 August 2002 and a date of **14 December 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

28 JUL 2004

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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Angela Dallas Sebor
SHERIDAN ROSS P.C.
1560 Broadway
Suite 1200
Denver, Colorado 80202-5141

In re Application of KOHN et al. Application No.:10/487,066 PCT Application No.: PCT/US02/15454 International Filing Date: 14 May 2002 Priority Date: 14 May 2001 Attorney Docket No.: 2997-33-PUS For: PRODUCTION AND USE OF A POLAR LIPID-RICH FRACTION CONTAINING OMEGA-3 AND/OR OMEGA-6 HIGHLY UNSATURATED FATTY ACIDS FROM MICROBES, GENETICALLY MODIFIED PLANT SEEDS AND MARINE ORGANISMS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of Unintentionally Abandoned Patent Application Pursuant to 37 C.F.R. § 1.137(b)," filed in the United States Patent and Trademark Office on 17 February 2004 is **GRANTED**.

BACKGROUND

On 14 May 2002, applicants filed international application PCT/US02/15454. The international application claims a priority date of 14 May 2001 and designates the United States. The Request form for filing the international application which was submitted did not include a declaration of the inventors. 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 entry into the United States National Stage was thirty months from the priority date, that is 14 November 2003.

On 17 February 2004, applicants 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), the appropriate petition fee, and a declaration of the inventors.

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). Payment of the basic national fee and submission of a copy of the international application would constitute a proper reply for entry into the national stage.

Applicants have stated in the instant petition that the "entire delay in filing the Transmittal letter to the U.S. Designated/Elected Office for a national stage filing under 35 U.S.C. § 371 and in making payment of the national stage filing fees, f rom the due date for the submission until the filing of a grantable petition pursuant to 37 CFR 1.137(b), was unintentional." This statement satisfies 37 CFR 1.137(b)(3). Applicants' payment of the basic national fee satisfies the requirement for a reply under 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.

However, the declaration of the inventors filed 17 February 2004 is improper because it constitutes a composite of several documents. More specifically, the first two pages of the declaration, which are form PT0/SB/01, are unsigned. The third page appears to be a copy of the second page but is signed by one of the inventors. Although the fourth page lists two additional inventors and is signed thereby, it is a part of form PCT/RO/101. The fifth page appears to be the same as the fourth page, except that the fifth page is only signed by the one of the additional inventors. Although the signatures of all inventors of the application have been provided, it does not appear that every inventor signed a complete declaration or signed a declaration indicating all inventors.

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 new oath or declaration of the inventors in compliance with 37 CFR 1.497 (a) and (b) is 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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L.C. BEGIN & ASSOCIATES, PLLC
510 HIGHLAND AVENUE
PMB 403
MILFORD, MI 48381

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Craig J. Kelly	:	
Application No. 11/487,066	:	DECISION ON PETITION
Filed: July 14, 2006	:	TO WITHDRAW
Attorney Docket No. 5803-00004	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2009.

The request is **APPROVED**.

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

The request was signed by Laurence Begin on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: CRAIG J. KELLY
139 SUMMIT STREET
DETROIT, MI 48209

cc: TI TECHNOLOGIES, LLC
8572 PAULINA AVENUE
GROSSE ISLE, MI 48138

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/487,066	07/14/2006	Craig J. Kelly	5803-00004

CONFIRMATION NO. 5619

POWER OF ATTORNEY NOTICE

46510
L.C. BEGIN & ASSOCIATES, PLLC
510 HIGHLAND AVENUE
PMB 403
MILFORD, MI 48381

OC000000036299365

Date Mailed: 06/04/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/02/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

16 JUN 2004

#3

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

In re Application of	:	
SACREE	:	
Application No.: 10/487,079	:	DECISION ON
PCT No.: PCT/GB02/03007	:	
Int. Filing Date: 28 June 2002	:	PETITION UNDER
Priority Date: 28 June 2001	:	
Attorney Docket No.: 36422	:	37 CFR 1.137(b)
For: HEAD PROTECTION APPARATUS	:	

This decision is in response to applicants' submission filed 18 February 2004.

BACKGROUND

On 28 June 2002, applicant filed international application PCT/GB02/03007 which designated the U.S. and claimed a priority date of 28 June 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 January 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 December 2003 (28 December 2003 being a Sunday).

On 18 February 2004, 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; an assertion of small entity status; a declaration of inventors; the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; and a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

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

Application No.: 10/487,079

As to item (1), applicant submitted the basic national fee on 18 February 2004.

As to item (2), applicant submitted the petition fee on 18 February 2004.

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

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

The declaration of inventors filed 18 February 2004 is in compliance with 37 CFR 1.497(a)-(b).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BOSE MCKINNEY & EVANS LLP
111 Monument Circle
Suite 2700
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Application of	:	
Peter Kraemer, et al.	:	
Application No. 10/487,101	:	ON PETITION
Filed: September 1, 2004	:	
Attorney Docket No. 9134-0313	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 non-final Office action mailed January 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 29, 2008. The Notice of Abandonment was mailed August 12, 2008.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on October 10, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 1797 for appropriate action on the concurrently filed amendment.

Terri Johnson
Petitions Examiner
Office of Petitions

BOSE McKINNEY & EVANS LLP **CUSTOMER NUMBER 64108**
111 Monument Circle
Suite 2700
Indianapolis, Indiana 46204
(317) 684-5000

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Kraemer, Peter, et al.	}	Attorney Docket No. 9134-0313
Title:	DEVICE FOR EXTRACTING GAS OR LIQUID FROM MICROFLUIDIC THROUGH-FLOW SYSTEMS	}	Confirmation No. 2881
Serial No.:	10/487,101	}	Art Unit: 1797
Filed:	September 1, 2004	}	Examiner: Hopkins, Robert A.

PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(b)

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

Dear Sir:

Applicants respectfully petition the Commissioner to revive the above-identified application (hereinafter "the application"). This petition is being made under the provisions of 37 C.F.R. § 1.137(b) because the above-identified application was unintentionally abandoned for failure to respond to an Office Action having a mailing date of January 28, 2008.

Pursuant to 37 C.F.R. § 1.137(b), accompanying this petition is a complete response to the Office Action dated January 28, 2008. All fees, including the required petition fee of $1620.00, are authorized to be charged to Deposit Account No. 02-3223.

As set forth below, the entire delay in filing the required response to the Office Action from the due date for the response to the Office Action until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

Adjustment Date: 10/19/2009 CKHLOK
10/14/2008 INTEFSW 00001437 023223 10487101
02 FC:1253 1110.00 CR

On January 28, 2008, an Office Action was mailed in the above-identified application setting a period of three (3) months for response thereto. Thus, a response was due on or before April 28, 2008 without any extensions of time, or by July 28, 2008 by paying a three (3) month extension of time fee.

Applicants received a Notice of Abandonment having a mailing date of August 12, 2008. Upon becoming aware of the abandonment, steps were taken to prepare a response and amendment to the outstanding Office Action and to prepare and file this Petition to Revive the above-identified application.

While the Petitioner was not prosecuting the application at the time of the abandonment, the Petitioner spoke with and gathered facts from Eric R. Waldkoetter, Esq. (USPTO Reg. No. 36,713), who is a patent attorney for the current assignee, Roche Diagnostics Operations, Inc. ("Roche"), and who was handling prosecution of the application at Roche at the time of the abandonment. The Petitioner has gathered sufficient facts from Mr. Waldkoetter to determine that any delay in filing the required response from the due date for the response until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

In view of the foregoing, the Petitioner submits that the entire delay in filing the required response to the Office Action, from the due date for the response until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b), was unintentional.

Favorable consideration of this petition, culminating in the granting of this petition, is respectfully requested.

If necessary, Applicants request that this response be considered a request for an extension of time for a time appropriate for the response to be timely filed. Please charge any fees that may be due in connection with this response to Bose McKinney & Evans LLP's Deposit Account No. 02-3223.

Respectfully submitted,

BOSE McKINNEY & EVANS

Michael C. Barton
Reg. No. 44,025

Date Submitted: October 10, 2008
1246415

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/16/09

2 Serial/Patent # 10/487,101

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		10/10/08	$ 1,110.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,110.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 2 -- 3 2 2 3

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

The extension of time is unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Johnson TITLE: Paralegal Specialist

SIGNATURE: Terri Johnson PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

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APPROVED: CKLOK DATE: 10/19/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Paper No.

Anthony P Curtis
Brinks Hofer Gilson & Lione
P O Box 10395
Chicago IL 60610

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APR 1 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Wu-Hon Francis Leung	:	DECISION ON APPLICATION
Application No. 10/487,102	:	FOR
Filed: February 17, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 11219/8	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed December 17, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred fourteen (614) days to six hundred seventy (670) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **six hundred seventy (670)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 26, 2007, 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 614 days. On December 17, 2007, applicants timely submitted the instant application for patent

term adjustment[1]. Applicants request reconsideration of the reduction of 56 days associated with the filing of an Information Disclosure Statement on July 20, 2007.

Applicants state that the present application is not subject to a terminal disclaimer.

37 C.F.R. § 1.704(d) provides that:

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

There is no dispute that the IDS filed on July 20, 2007, was filed after the filing of a response to the non-final Office action, was not expressly requested by the examiner and did not include this statement. In view thereof, the reduction of 56 days was properly entered pursuant to 37 CFR 1.704(c)(8).

On instant application for patent term adjustment, attorney Rickard DeMille now re-certifies that with respect to the information disclosure statement filed on July 20, 2007, 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. In view thereof, the reduction of 56 days is being removed.

The determination of patent term adjustment at the time of the mailing of the notice of allowance is 670 days.

---

[1] PALM records indicate that the Issue Payment was also filed on December 17, 2007.

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

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

Telephone inquiries specific to this 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

Day : Friday
Date: 4/11/2008

PALM INTRANET

Time: 18:28:59

PTA Calculations for Application: 10/487102			
Application Filing Date:	02/17/2004	PTO Delay (PTO):	675
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	61
Post-Issue Petitions:	0	Total PTA (days):	670
PTO Delay Adjustment:	56		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
39	04/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	56		
28	09/26/2007	MAIL NOTICE OF ALLOWANCE	1		14
27	09/26/2007	MAIL EXAMINER'S AMENDMENT			
26	09/25/2007	ISSUE REVISION COMPLETED			
25	09/25/2007	DOCUMENT VERIFICATION			
24	09/25/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	09/04/2007	EXAMINER'S AMENDMENT COMMUNICATION			
22	09/04/2007	NOTICE OF ALLOWABILITY			
21	05/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	07/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	07/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		56	14
18	07/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	05/25/2007	REFERENCE CAPTURE ON IDS			
16	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	06/05/2007	DATE FORWARDED TO EXAMINER			
14	05/25/2007	RESPONSE AFTER NON-FINAL ACTION		5	12
13	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/20/2007	MAIL NON-FINAL REJECTION	674		-1
11	02/15/2007	NON-FINAL REJECTION			
10	12/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
		IFW TSS PROCESSING BY TECH CENTER			

9	05/08/2006	COMPLETE			
8	05/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
7	02/17/2004	PRELIMINARY AMENDMENT			
6	06/14/2004	PRELIMINARY AMENDMENT			
5	08/23/2004	CLEARED BY OIPE CSR			
4	02/17/2004	371 COMPLETION DATE			
3	07/22/2004	APPLICATION DISPATCHED FROM OIPE			
2	07/22/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	02/17/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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APR 1 2 2007

OFFICE OF PETITIONS

In re Patent No. 7,010,988	:	
Issue Date: March 14, 2006	:	
Application No. 10/487,118	:	DECISION ON PETITION
Filed: February 19, 2004	:	
Attorney Docket No. GROTH 3.3-035	:	

This is a decision on the petition filed October 31, 2005 (certificate of mailing date October 27, 2006), requesting issuance of a duplicate Letters Patent for the above-identified patent. The petition will be treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the nonreceived Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish nonreceipt of the original Letters patent. Accordingly, Publishing Division is directed to issue a duplicate Letters Patent. No petition fee has been or will be charged in connection with this matter.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 270-9937

15 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fitch Even Tabin and Flannery
120 South La Salle Street; Suite 1600
Chicago, IL 60603-3406

In re Application of	:	
NAKAGAWARA et al.	:	
Application No.: 10/487,132	:	
PCT No.: PCT/JP02/08524	:	DECISION ON REQUEST
Int. Filing Date: 23 August 2002	:	
Priority Date: 24 August 2001	:	
Attorney Docket No.: 7388/80976	:	
For: NOVEL.NEDL-1 GENE		

This communication is in response to applicants' "Request for Corrected Notification of Missing Requirements under 35 U.S.C. 371 . . . " filed in United States Patent and Trademark Office on 13 July 2004.

Applicants state in the present request that Notification of Missing Requirement (mailed 28 June 2004) did not indicate that a 19-page sequence listing paper copy had been filed. A review of the application file reveals that on 06 February 2003, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; an international search report; a copy of the International Preliminary Examination Report and a 19-page sequence listing. Applicants are correct in their assertion that the Notification did not indicate that the 19-page sequence listing has been filed. However, since the application contains a sequence listing, applicants are required to file a computer readable form of the sequence listing in accordance with 37 CFR 1.821 -1.825 which the Notification of Missing Requirements failed to indicate. Therefore, the Notification of Missing Requirements mailed 28 June 2003 is hereby vacated.

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/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment are required. Furthermore, the Notification will indicate that the sequence listing was not in compliance with 37 CFR 1.821-1.825 in that a copy of the "sequence listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).

Anthony Smith

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 08-07

Paper No: __

COPY MAILED

AUG 2 7 2007

OFFICE OF PETITIONS

HAUPTMAN, KANESAKA & BERNER
PATENT AGENTS, LLP
1700 DIAGONAL ROAD
SUITE 310
ALEXANDRIA VA 22314

In re Application of	:	
Fujisawa, et al.	:	DECISION
Application No.: 10/487,143	:	
Filing Date: 23 February, 2004	:	
Attorney Docket No. 5681-07800	:	

This is a decision on the petition filed on 17 August, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

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[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- Petitioner failed to reply timely and properly to a final Office action (copy enclosed) mailed on 30 June, 2005, with reply due, absent an extension of time, on or before 30 September, 2005;

- the application went abandoned by operation of law after midnight 30 September, 2005;

- on 11 July, 2005, the U.S. Postal Service (USPS) returned the Office action as undeliverable;

- on 19 July, 2006, the Office mailed the Notice of Abandonment;

- on 17 August, 2006, Petitioner filed the instant petition, made a statement that he had filed a Notice of Change of Address with the Office as to this matter, and that the enclosed copy of his date-stamped (12 August, 2004) receipt card and a copy of this filing evidenced his actions, and that the Office action never had been delivered–and though Petitioner failed to made the express statement[2] that he had searched his files and did not find the Office action the presence in the Office record of the returned Office action is taken as clear evidence of actual, rather than simply averred, events and the equivalent statement that Petitioner made a search of his files and that search did not reveal the Office action, which was not received, and , the Office spoke with Petitioner on 23 August, 2007, to confirm that as required he had made a search of his files and did not find the paper(s).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office 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.[3]

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[2] Petitioner is cautioned to read carefully the extract that follows of the Commentary in the MPEP §711.03(c)–and Petitioner further is cautioned to track in the future the practice and language set forth therein.

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

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practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

Further, the commentary at MPEP §711.03(c) provides:

* * *

> **A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action**
>
> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application

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[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] 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.

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears, therefore, to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as

considered under 37 C.F.R. §1.181 is **granted** as to the withdrawal of the 19 July, 2006, Notice of Abandonment–which hereby is **vacated**.

The instant application is released to Technology Center 2600 with instructions to remail the Office action previously mailed on 30 June, 2005, but not received.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Encl: 30 June, 2005, Non-Final Office Action

[11] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/487,143	02/23/2004	Tomonori Fujisawa	K-2149	6238

7590 06/30/2005

Kanesaka & Takeuchi
1423 Powhatan Street
Alexandria, VA 22314

EXAMINER
CONTEE, JOY KIMBERLY

ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 06/30/2005

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

Office Action Summary	Application No.	Applicant(s)	
	10/487,143	FUJISAWA ET AL.	
	Examiner	Art Unit	
	Joy K Contee	2686	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 February 2004*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5 and 6* is/are rejected.

7)☒ Claim(s) *4* is/are objected to.

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

Application Papers

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

10)☒ The drawing(s) filed on *23 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☒ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

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

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

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/23/04*.

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

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 4, depends form any of claims 1 to 3 (i.e., unclear as to which of the claims 1 to 3). See MPEP § 608.01(n). Accordingly, the claim 4 has not been further treated on the merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Sporgis, U.S. Patent No. 6,320,495.

Regarding claim 1, Sporgis discloses a method of detecting from an information request signal transmitted from a cellular terminal positional information included in the signal (reads on wireless communication device transmitting player location and other variables to gamemaster), and delivering, when it is determined that the cellular terminal is within a specific area, information corresponding to the specific area to the cellular

terminal in a form of a quiz or a game (reads on gamemaster transmitting clue to players' wireless device based on player's location) (col. 3,lines 7-13 and col. 4,lines 14-33).

Regarding claim 2, Sporgis discloses the information delivery method according to claim 1 further comprising the step of delivering a result record to a response from the cellular terminal for the information delivered to the cellular terminal (col. 3,lines 2-17).

Regarding claim 3, Sporgis discloses the information delivery method according to claim 1 or claim 2 further comprising the step of delivering information other than that corresponding to the specific areas (i.e., reads on other variables such as the number of correct answers to clues).

Regarding claim 5, Sporgis discloses an information delivery server (reads on central gamemaster computer) connected to a server (reads on inherent wireless communication network) for managing a cellular terminal and capable of acquiring positional information for said cellular terminal via a network for delivering information to said cellular terminal in a form of a quiz or a game, said information delivery server comprising an inherent nation-wide local information database, an area-specific local information database, a quiz or game information database, and a positional information database (reads on treasure hunt game played on small scale or larger scales in a local or multitude of geographic treasure hunt territories) (col. 2,lines 10-31 and 51-56 and col. 3,lines 23-36).

Regarding claim 6, Sporgis discloses the information delivery server according to claim 5 further comprising an inherent point information database (i.e., at the gamemaster) (col. 3, lines 2-27 and col. 5,lines 23-28).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stadelmann, U.S. Patent No. 6,416,414, discloses a game system corresponding method and adapted devices.

Paulsen, U.S. Patent No. 6,628,939, discloses a personal gaming device.

Sinclair et al., U.S. Patent No. 6,554,707, discloses an interactive vice wireless game system using predictive command input.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K Contee whose telephone number is 571.272.7906. The examiner can normally be reached on Monday thru Friday, 5:30 to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571.272.7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

JC

6/25/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : January 29, 2007

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7,122,668

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: SQ Au 1623 Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/487,160	07/19/2004	Hansjoerg Braendle	J646-020 US	2471

21706 7590 05/01/2006

NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG, NY 10962-2100

EXAMINER
MERLINO, AMANDA H

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 05/01/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 041806

NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG NY 10962-2100

In re Application of:	:	
BRAENDLE ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/487,160	:	INVENTORSHIP
Filed: July 19, 2004	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: J646-020 US	:	

This is a decision on the petition filed February 28, 2006 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed February 28, 2006 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the name:

Daniel Bischof

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/487,160	07/19/2004	Hansjoerg Braendle	J646-020 US	2471

21706 7590 12/08/2006

NOTARO AND MICHALOS
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG, NY 10962-2100

EXAMINER
ROSENBERGER, FREDERICK F

ART UNIT	PAPER NUMBER
2884	

DATE MAILED: 12/08/2006

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

UNITED STATES DEPARTMENT OF COMMERCE
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10/487160

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	20061113

DATE MAILED:

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

Commissioner for Patents

Attached is a response to the petition filed 11/09/2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 041006

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of: SCHRODER ET AL. Serial No.: 10/487,160 Filed: September 10, 2003 Attorney Docket No.: P23958	: : : : :	PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed November 9, 2004 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed February 28, 2006 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the name:

Ralf Heikens

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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EAST HANOVER, NJ 07936-1080

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of	:	
GOEBEL et al	:	
Application No.: 10/487,167	:	DECISION ON PETITION
Filing Date: February 17, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: H-32112A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 16, 2007.

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

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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P. O. BOX 9133
CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of	:
Jay R. Luly et al	:
Application No. 10/487,168	: DECISION GRANTING PETITION
Filed: October 7, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1855.1049054	:

This is a decision on the petition, filed February 27, 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 15, 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar10\487168.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.*

27 JUL 2004

#4

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of KOHN et al. Application No.: 10/487,169 PCT No.: PCT/US02/15479 Int. Filing Date: 14 May 2002 Priority Date: 14 May 2001 Attorney Docket No.: 2997-32-PUS For: PRODUCTION AND USE OF A POLAR LIPID-RICH FRACTION CONTAINING STEARIDONIC ACID AND GAMMA LINOLENIC ACID FROM PLANT SEEDS AND MICROBES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' submission filed 17 February 2004.

BACKGROUND

On 14 May 2002, applicant filed international application PCT/US02/15479 which designated the U.S. and claimed a priority date of 14 May 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 November 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 November 2003.

On 17 February 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the basic national fee; the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; a declaration of inventors; and a "PETITION FOR REVIVAL OF UNINTENTIONALLY ABANDONED PATENT APPLICATION PURSUANT TO 37 C.F.R. § 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 17 February 2004.

As to item (2), applicant submitted the petition fee on 17 February 2004.

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

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

The declaration of inventors filed 17 February 2004 fails to comply with 37 CFR 1.497(a)-(b). The published international application lists Ruben Jesus Abril as an inventor while the declaration filed 17 February 2004 lists Ruben R. Abril as an inventor. No explanation is given as to the difference in names. Although a "Form PCT/RO/101 (continuation sheet)(July 1998)(form duplicated by Sheridan Ross P.C.-jmm)" is provided listing the inventor as Ruben R. Abril, it is not clear what this form is intended to convey. No explanation has been provided. It is not clear there was a typographical or transliteration error in the middle name of the inventor as indicated in the international application, or if the inventor has changed his name, or if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Additionally, it is not clear that each inventor signed a complete declaration. It appears that three inventors signed two separate declarations. However, only one declaration, which contains a first page which does not appear to have been associated with the second or third pages of the declaration until the filing of the declaration, a second page which does not appear to have been associated with the first or third pages of the declaration until the filing of the declaration, and a third page which does not appear to have been associated with the first or second pages of the declaration until the filing of the declaration. Applicants must submit either a single declaration executed by all of the inventors or in the alternative a copy of the entire declaration for each signed declaration.

CONCLUSION

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

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

petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Regarding whether each inventor signed a complete declaration, applicants must submit either a single declaration executed by all of the inventors or in the alternative a copy of the entire declaration for each signed declaration. Extensions of time under 37 CFR 1.136(a) are available.

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

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

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

#8

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04 AUG 2006

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of	:	
KOHN et al.	:	
Application No.: 10/487,169	:	DECISION
PCT No.: PCT/US02/15479	:	
Int. Filing Date: 14 May 2002	:	
Priority Date: 14 May 2001	:	
Attorney Docket No.: 2997-32-PUS	:	
For: PRODUCTION AND USE OF A POLAR	:	
LIPID-RICH FRACTION CONTAINING STEARIDONIC	:	
ACID AND GAMMA LINOLENIC ACID FROM PLANT	:	
SEEDS AND MICROBES	:	

This decision is in response to applicants' submission filed 09 May 2006, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 14 May 2002, applicant filed international application PCT/US02/15479 which designated the U.S. and claimed a priority date of 14 May 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 November 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 November 2003.

On 17 February 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the basic national fee; the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; a declaration of inventors; and a "PETITION FOR REVIVAL OF UNINTENTIONALLY ABANDONED PATENT APPLICATION PURSUANT TO 37 C.F.R. § 1.137(b)".

On 27 July 2004, a decision was mailed granting applicant's petition to revive under 37 CFR 1.137(b). However, it was noted that a new declaration of inventors was required since the declaration of inventors filed 17 February 2004 was not in compliance with 37 CFR 1.47(a)-(b). A two-month extendable time period was set for response.

On 26 April 2006, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned for failure to respond to the decision mailed 27 July 2004.

On 09 May 2006, applicant filed the instant submission, which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 27 September 2004 applicant filed a response to the decision including three declarations of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 27 September 2004 and which itemizes a a response to the decision and three declarations of inventors and identifies the above-captioned application number and docket number. Further, practitioner states that the copy of the response and declarations filed 09 May 2006 is a copy of the response and declarations originally filed 27 September 2004. Therefore, in view of the date-stamped receipt and practitioner's statement, the declarations received on 09 May 2006 may properly be accepted as originally received in the USPTO on 27 September 2004. The NOTIFICATION OF ABANDONMENT mailed 26 April 2006 is hereby vacated.

The declaration filed 27 September 2004 is in compliance with 37 CFR 1.497(a)-(b). The name Jesus R. Abril, as indicated in the declaration of inventors filed 27 September 2004, is construed as being a shortened version of the name Jesus Ruben Abril, as indicated in the publication of the international application. If this interpretation is incorrect, applicant is required to notify the Office of PCT Legal Administration immediately.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 26 April 2006 is **VACATED**.

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

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

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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OFFICE OF PETITIONS

In re Application of :
Mitsuhiro KASHIWABARA :
Application No. 10/487,179 :
Filed: February 18, 2004 :
Attorney Docket No. CU-5985 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 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, August 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 24, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final office action of August 23, 2005 is accepted as having been unintentionally delayed.

The Information Disclosure Statement filed November 21, 2007 and the Power of Attorney filed November 26, 2007, have been accepted and made of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

The application file is being referred to Technology Center AU 2879 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Petitions Examiner
Office of Petitions

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DANIEL REITENBACH
CROMPTON CORPORATION
BENSON ROAD
MIDDLEBURY CT 06749

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OFFICE OF PETITIONS

In re Application of	:	
Duyck et al.	:	
Application No. 10/487,180	:	ON PETITION
Filed: 18 February, 2004	:	
Attorney Docket No. 0073UP	:	

This is a decision on the petition, styled under 37 CFR 1.47(b) and filed on 11 March, 2005, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1]

The petition is **DISMISSED AS MOOT**.

Papers subsequently filed on 18 March, 2005, included a supplemental declaration signed by all joint inventors. As such, the petition is no longer necessary and is dismissed as moot.

As the petition was not treated on the merits, the petition fee will be credited to counsel's deposit account, No. 23-2656.

The application is being referred to Technology Center Art Unit 1711 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

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JEFFREY F MUNSON
THE LUBRIZOL CORPORATION
29400 LAKELAND BOULEVARD
WICKLIFFE, OH 44092-2298

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OFFICE OF PETITIONS

In re Application of	:	
Moreton et al.	:	
Application No. 10/487,192	:	DECISION ON PETITION
Filed: February 19, 2004	:	
Attorney Docket No. 3023R-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2008, to revive the above-identified application.

The petition is not signed by the attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Christopher D Hilker 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. Hilker desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Hilker, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 31, 2008, as required by the Notice of Allowance and Fee(s) Due mailed December 31, 2007. Accordingly, the application became abandoned on April 1, 2008. A Notice of Abandonment was mailed April 24, 2008.

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.

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 $1,440 and the publication fee of $300, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay[1].

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER D. HILKER
THE LUBRIZOL CORPORATION
29400 LAKELAND BOULEVARD
WICKLIFFE OH 44092-2298

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, 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).

29 SEP 2004
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John M. Siragusa
Carlson, Gaskey & Olds, P.C.
400 W. Maple, Suite 350
Birmingham, MI 48009

In re Application of	:	
Mignone	:	
Application No. 10/487,196	:	
PCT No.: PCT/EP02/01561	:	
Int. Filing Date: 08 February 2002	:	DECISION
Priority Date: 24 August 2001	:	
Atty. Docket No.: 67042-003	:	
For: Elastic Band For Tying Chickens	:	
And Like Animals To Be Cooked	:	

This is in response to the papers filed on 19 February 2004, which are being treated as a request under 37 C.F.R. 1.42.

BACKGROUND

This international application was filed on 08 February 2002, claimed an earliest priority date of 24 August 2001, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 06 March 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 24 February 2004. Applicant filed, *inter alia*, the basic national fee on 19 February 2004.

DISCUSSION

Review of the declaration of the inventors filed on 19 February 2004 reveals that it indicates that inventor Giuseppe Mignone is deceased. 37 CFR 1.42 provides in part that

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

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the

citizenship, residence and mailing address of the legal representative.

Further examination of the declaration reveals that it is signed on behalf of the deceased inventor by Adriana Mignone in the capacity of "Legal Rep." The declaration includes the facts which the deceased inventor would have been required to state, but it does not clearly indicate the citizenship, residence and mailing address of the legal representative as required by 37 CFR 1.497(b)(2). Therefore, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

CONCLUSION

The request under 37 CFR 1.42 is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, 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: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

- 3 JAN 2005

#5

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John M. Siragusa
Carlson, Gaskey & Olds, P.C.
400 W. Maple, Suite 350
Birmingham, MI 48009

In re Application of	:	
Mignone	:	
Application No. 10/487,196	:	
PCT No.: PCT/EP02/01561	:	
Int. Filing Date: 08 February 2002	:	DECISION
Priority Date: 24 August 2001	:	
Atty. Docket No.: 67042-003	:	
For: Elastic Band For Tying Chickens	:	
And Like Animals To Be Cooked	:	

This is in response to the request for reconsideration filed on 19 November 2004, which is being treated as a renewed request under 37 C.F.R. 1.42.

DISCUSSION

In a decision mailed on 29 September 2004, the declaration filed on 19 February 2004 was not accepted under 37 CFR 1.42 because

Further examination of the declaration reveals that it is signed on behalf of the deceased inventor by Adriana Mignone in the capacity of "Legal Rep." The declaration includes the facts which the deceased inventor would have been required to state, but it does not clearly indicate the citizenship, residence and mailing address of the legal representative as required by 37 CFR 1.497(b)(2). Therefore, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

The instant request for reconsideration is accompanied by a newly executed declaration which clearly states both the information to which the deceased sole inventor would have been required to subscribe, as well as the citizenship, residence and post office address of Adriana Mignone, who has signed the declaration as the "Legal Rep." of the deceased inventor. In view of the totality of the circumstances now reflected in the application file, it would be appropriate to grant the requested relief.

CONCLUSION

The declaration filed on 19 November 2003 is **ACCEPTED** under 37 CFR 1.42.

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 **19 November 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

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7/1/08

Patent No. :7367428
Ser. No. : 10398637
Inventor(s) :Hartmut SCHMIDT
Issued : 5/6/08
Title : Device For Supplying A Plurality Of Service Points, Such As Lubricating Points
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
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

WENDEROTH, Lind & Ponack
2033 K Street N.W. Suite 800
Washington, D.C. 20006-1021

HR

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WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,367,428 :
Issue Date: May 6, 2008 :
Application No. 10/487,215 :
Filed: February 19, 2004 :
Attorney Docket No. 2003-0695A :

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

The request is **GRANTED**.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

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AUG 23 2007

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

In re Application of	:
Alphonse Hübsch et al	:
Serial No.: 10/487,224	: PETITION DECISION
Filed: August 2, 2004	:
Attorney Docket No.: 029860-0159	:

This is in response to the petition under 37 CFR 1.48(a), filed March 20, 2007, requesting correction of inventorship in this allowed application.

BACKGROUND

This application was filed as the National Stage of PCT/EP02/09294 on February 20, 2004 and accepted as complete on August 2, 2004. The application named four inventors all of whom signed the declaration between 6/06/02 and 7/25/02. Correspondence was held with and power of attorney was initially given to Rothwell, Figg, Ernst & Manbeck. On December 6, 2006, the Assignee (ZLB Bioplasma AG) filed a new Power of Attorney to Foley and Lardner, accompanied by a proper statement under 37 CFR 3.73(b) and assignment documents to be recorded by the Office signed by each inventor.

The application was allowed on March 19, 2007. This petition was filed on March 20, 2007, by attorneys from Larson & Larson representing two of the four named inventors, namely Markus G. Lang and Roberto Paterno. The petition alleges that Alfonse Hübsch and Peter G. Lerch are not inventors of the subject matter of the application and requests that they be deleted as inventors. The petition is accompanied by various letters and declarations, some of which are unsigned.

DISCUSSION

The petition has been filed by attorneys who are not attorneys of record and for that reason alone, the petition can be dismissed.

It is further noted, however, that the petition is filed under 37 CFR 1.48(a) which is the proper rule for correction of inventorship. The rule requires as part of the request a statement from each inventor and each Assignee agreeing to the change of inventorship and that the error in naming the incorrect inventors was made without deceptive intent. None of these statements are included with the petition or are unsigned, if included. Further, the required fee for the petition has not been paid or authorized.

The petition is **DENIED.**

The application will be forwarded to publications Division for issuance as a patent. Should correction of the inventorship be required after the patent issues, applicants should file a petition under 37 CFR 1.324.

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.

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

cc:

LARSON & LARSON, PA
11199 69TH STREET NORTH
LARGO, FL 33773-5504

02 MAR 2004

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Daniel A. Thomson
BROUSE McDOWELL
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Akron, Ohio 44308-1471

In re Application of	:	
Moshe YAMIN, et al.	:	
Application No.: 10/487,234	:	DECISION ON
PCT No.: PCT/US02/21506	:	PETITION
Int. Filing Date: 09 July 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 09 July 2001	:	
Attorney Docket No.: 01205.21946	:	
For: MULTIPLE CONTROLS FOR	:	
MOLECULAR GENETIC ANALYSES	:	

This decision is in response to the petition to revive under 37 CFR 1.137(b) filed 17 February 2004 and ensuing communication of 02 March 2004 in the above-captioned application. The petition to revive the international application is hereby **GRANTED** as follows:

The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "... on the basis described above, the abandonment should be held to be inadvertent, the delay should be held to be 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 application file reveals that no declaration of the inventors in compliance with 37 CFR 1.497 has been filed. Since the declaration of the inventors was submitted after 30 months from the priority date claimed of 09 July 2001, an amount of $130.00 surcharge (fee code 1617) for filing an oath or declaration after 30 months, has been charged to Counsel's Deposit Account No. 50-1210, as authorized in the petition.

Applicants' claim for priority is acknowledged. The application has an international filing date of **09 July 2002** under 35 U.S.C. 363. 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 the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) to inform applicant that a declaration in compliance with 37 CFR 1.497 must be submitted in order to avoid abandonment of the application as to the national stage in the United States.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

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

In re Application of	:	
KATOH, Osamu et al.	:	
Application No.: 10/487,240	:	DECISION ON
PCT No.: PCT/JP02/08654	:	
Int. Filing Date: 28 August 2002	:	PETITION
Priority Date: 28 August 2001	:	
Attorney Docket No.: 249431US0PCT	:	UNDER 37 CFR 1.181
For: NOVEL AMIDE HYDROLASE GENE	:	

This decision is in response to applicant's Petition Under 37 CFR 1.181, filed with the United States Patent and Trademark Office on 04 December 2006.

BACKGROUND

On 28 August 2002, applicant filed international application PCT/JP02/08654, claiming a priority date of 28 August 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 March 2003. The deadline for payment of the basic national fee in the United States was 28 February 2004.

On 27 February 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, a sequence listing.

On 17 September 2004, the Office mailed a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the 35 USC 371(c)(1), (c)(2) and (c)(4) requirements and all 35 USC 371 requirements were satisfied on 27 February 2004.

On 15 December 2004, the Office mailed Withdrawal of Previously Sent Notice, indicating that the Notification of Acceptance had issued in error and Notification to Comply with Requirements For Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922).

On 24 November 2006, the Office mailed Notification of Abandonment, indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 15 December 2004. The form number was corrected by hand to indicate form PCT/DO/EO/922.

On 04 December 2006, applicant filed a Petition Under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

As indicated above, the Notification mailed on 15 December 2004 is not a Notification of Missing Requirements, but rather, a notice to furnish a sequence listing (Form PCT/DO/EO/922). The sequence listing problems are noted in the transaction history that applicant provided with this petition.

If applicant did not receive the 15 December 2004 notice, applicant should file a petition as set out 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).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper 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 1.181." No additional petition fee is required.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

ENCLOSURES: Withdrawal of Previously Sent Notice
Notification to Comply with Requirements For Patent Application Containing Nucleotide and/or Amino Acid Sequence Disclosure

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1 0 JUL 2007

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

In re Application of	:	
KATOH, Osamu et al.	:	
Application No.: 10/487,240	:	DECISION ON
PCT No.: PCT/JP02/08654	:	
Int. Filing Date: 28 August 2002	:	PETITION
Priority Date: 28 August 2001	:	
Attorney Docket No.: 249431US0PCT	:	UNDER 37 CFR 1.181
For: NOVEL AMIDE HYDROLASE GENE	:	

This decision is in response to applicant's Petition Under 37 CFR 1.181, filed with the United States Patent and Trademark Office on 07 May 2007.

BACKGROUND

On 24 April 2007, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition without prejudice.

On 07 May 2007, applicant filed this renewed petition under 37 CFR 1.181.

DISCUSSION

Applicant claims to have not received 15 December 2004 Notification to Comply with Requirements For Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922). The requirements for establishing non-receipt of an Office communication are set out 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) and (2) have been satisfied. Item (3) has not been satisfied. The docket records required are the docket records for the entire firm for the date on which a response would have been docketed as due had the USPTO communication been received and docketed. See MPEP 711.03(c)(I)(A) stating "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." The docket records for the single application are not sufficient.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper 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 1.181." No additional petition fee is required.

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

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ALEXANDRIA VA 22314

In re Application of	:	
KATOH, Osamu et al.	:	
Application No.: 10/487,240	:	DECISION ON
PCT No.: PCT/JP02/08654	:	
Int. Filing Date: 28 August 2002	:	PETITION
Priority Date: 28 August 2001	:	
Attorney Docket No.: 249431US0PCT	:	UNDER 37 CFR 1.181
For: NOVEL AMIDE HYDROLASE GENE	:	

This decision is in response to applicant's Petition Under 37 CFR 1.181, filed with the United States Patent and Trademark Office on 21 August 2007.

BACKGROUND

On 10 July 2007, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition without prejudice.

On 21 August 2007, applicant filed this renewed petition under 37 CFR 1.181.

DISCUSSION

Applicant claims to have not received 15 December 2004 Notification to Comply with Requirements For Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922). The requirements for establishing non-receipt of an Office communication are set out 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) and (2) were previously satisfied. Item (3) has now been satisfied.

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 24 November 2006 is **VACATED**..

Applicants are required to comply with the sequence listing requirements under 37 CFR 1.821-825 including furnishing the sequence listing in computer readable format, 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 the abandonment of this application.

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

/Erin P. Thomson/

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20 SEP 2004

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Robert C. Perez
Pillsbury Winthrop LLP
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McLean, VA 22102

In re Application of	:	
Dellea et al.	:	
Serial No.: 10/487,249	:	DECISION ON
PCT No.: PCT/FR02/02915	:	PETITION
Int. Filing Date: 21 August 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 23 August 2001	:	
Attorney's Docket No.: 007875-0308103	:	
For: LASER SOURCE IN GUIDED OPTICS	:	

This decision is responsive to the "PETITION TO REVIVE ABANDONED PATENT APPLICATOIN UNDER 37 CFR 1.137(b)" filed 13 August 2004. Applicant included the $665 petition fee.

BACKGROUND

On 21 August 2002 applicants filed international application PCT/FR02/02915, which claimed priority of an earlier French application filed 23 August 2001. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 21 February 2004.

On 19 February 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a copy of the international application and an English translation of the international application. These papers were assigned Application No. 10/487,249.

On 13 August 2004, applicant filed the current petition which was accompanied by the petition fee, and the basic national fee.

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 and the petition fee.

It should be noted that the transmittal letter filed on 19 February 2004 incorrectly identified the international application number as 01 11043. The declaration correctly identified the international application number.

CONCLUSION

The petition 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 returned to the United States Designated/Elected Office for processing in accordance with this decision.

Debra Brittingham
PCT Legal Office
DSB/BM:dsb

Boris Milef
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PCT Legal Office

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15 OCT 2004

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Robert C. Perez
Pillsbury Winthrop LLP
P.O. Box 10500
McLean, VA 22102

In re Application of	:
Dellea et al.	:
Serial No.: 10/487,249	: CLARIFICATION OF
PCT No.: PCT/FR02/02915	: DECISION ON
Int. Filing Date: 21 August 2002	: PETITION
Priority Date: 23 August 2001	: UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 007875-0308103	:
For: LASER SOURCE IN GUIDED OPTICS	:

The decision mailed 20 September 2004 granting applicant's petition to revive incorrectly indicated the date of filing of the petition to revive the application as 13 August 2004. However, the correct date of the petition is 24 June 2004.

This application has an international filing date of 21 August 2002 and a 35 U.S.C. 371 (a) (1), (2) and (4) date of 24 June 2004.

The application is being returned to the United States Designated/Elected Office for continued processing in accordance with the earlier decision.

Debra Brittingham
PCT Legal Office
DSB/RC:dsb

Richard Cole
PCT Legal Examiner
PCT Legal Office

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24 JUN 2004

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Roger Browdy
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624 NINTH STREET, N.W., SUITE 300
WASHINGTON, D.C. 20001

In re Application of	:	
Sylvia LEE-HUANG et al	:	
Application No.: 10/487,259	:	
PCT Application No.: PCT/US01/21582	:	DECISION ON
International Filing Date: 09 July 2001	:	
Priority Date: 07 July 2000	:	PETITION UNDER
Attorney Docket No.: LEE-HUANG5A	:	
For: ANTI-HIV AND ANTI-TUMOR	:	37 CFR 1.137 (b)
PEPTIDES AND FRAGMENTS	:	
OF LYSOZYME	:	

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 20 February 2004, to revive the above identified application.

BACKGROUND

On 09 July 2001, applicant filed international application number PCT/US01/21582 which claimed priority to an earlier filed US Provisional application 60/216,702 filed on 07 July 2000.

On 07 January 2003, the application became abandoned in the United States for failure to pay the basic National fee within 30 months from the priority date of the provisional application.

On 20 February 2004 applicant submitted the instant petition under 37 CFR 1.37 (b) for revival.

DISCUSSION

A petition to revive under 37 CRF 1.137 (b) must be accompanied by: (1) a proper response, unless it has been previously submitted; (2) the requisite petition fee as required by 37 CFR 1.17 (m) along with the requisite national stage 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," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137 (c).

On 15 January 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) along with the requisite basic national fee $365 (International preliminary examination fee paid to USPTO (37 CFR 1.482) but all claims did not satisfy provisions of PCT Article 33(1)-(4)); and (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,".

CONCLUSION

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

This application is being forwarded to the National Stage Processing Division for further processing.

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

Mail Date: 04/21/2010

Applicant	: Roger Anthony Stanley	: DECISION ON REQUEST FOR
Patent Number	: 7601376	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,263	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **856** 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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9710 SCRANTON RD
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SAN DIEGO, CALIFORNIA 92122

OCT 18 2007

In re Application of	:
BARBAS, III et al	:
Serial No.: 10/487,268	:Decision on Petition
Filed : JUNE 18, 2004	:
Attorney Docket No.: 8098-006-US-1	:

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181 filed on August 21, 2007 requesting withdrawal of the lack of unity requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application is a national stage filing under 35 USC 371 of PCT/US02/26388 and, as such, is eligible for PCT unity of invention practice.

On December 28, 2006, the examiner mailed a lack of unity requirement in which the original claims 1-74 were divided into 3 groups. Part of this lack of unity requirement required selection of a specific sequence for examination.

On January 26, 2007, Applicants elected Group I (Claims 1-50) and SEQ ID NO: 1 with traverse. Claims 1-7, 32-50 were readable on the elected invention.

On April 20, 2007 the examiner considered the traversal, made the restriction requirement FINAL and mailed to applicants a non-final Office action, in which Group I (Claims 1-7, 32-50) and SEQ ID NO: 1 were searched and examined on the merits. Claims 1-6 and 33-50 were rejected under 35 USC 112, first and second paragraphs. Claims 1-5 and 33-44 were rejected under 35 USC 102(b). Claims 45, 47, 48 and 50 were rejected under 35 USC 103(a). Claims 7 and 32 were rejected under 35 USC 112, first paragraph for scope of enablement.

On July 10, 2007, applicants filed a response to the non-final Office action.

On August 21, 2007, applicants filed this petition to request that the Office withdraw the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered.

PCT Rule 13.2 states that unity of invention is present when the groups share a technical feature that makes a contribution over the prior art.

In the non-final rejection mailed April 20, 2007, claims 1-5 and 33-44 were rejected under 35 USC 102(b) and claims 45, 47, 48 and 50 were rejected under 35 USC 103(a).

Applicants argue that the withdrawn claims are clearly linked by a common inventive concept.

The method for determining unity of invention under PCT Rule 13 shall be construed as permitting, in particular, an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product. In the instant application, Claims 1-2, 4-7, and 32-50 are drawn to an isolated and purified zinc finger nucleotide binding polypeptide comprising a nucleotide binding region from 7-10 amino acid residues, which region binds *preferentially* to a target nucleotide sequence of the formula CNN such that the sequence of the polypeptide generates amino acid-base interactions such that defined amino acid residues specify the 5'-base, middle base and 3'-base of the target nucleotide sequence of the formula CNN.

The definition of "preferentially" appears to be the crux of the argument presented by applicant. Applicant argues that "binds preferentially to a target nucleotide of the formula CNN" means that the polypeptide preferentially binds CNN over binding to ANN, GNN <u>and</u> TNN. The examiner asserts that the broadest reasonable interpretation of "binds preferentially to a target nucleotide of the formula CNN" means that the polypeptide preferentially binds CNN over binding to <u>any one of</u> ANN, GNN and TNN.

As provided in MPEP 2106, "USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification

imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.")."

The MPEP continues that "where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings.")

The petition asserts that the interpretation provided by the examiner is not reasonable because the interpretation is inconsistent with the specification and the understanding of one of ordinary skill in the art. The instant specification does not appear to provide any definition for preferentially. Thus, the examiner must look to the meaning of preferentially given in the art. "Preferentially" appears to be a relative term which is defined by Merriam-Webster Online Dictionary as "showing preference".

As clearly stated on page 3 of the non-final Office action mailed April 20, 2007, Desjarlais & Berg teach zinc finger nucleotide binding polypeptides that preferentially bind CNN over binding to ANN and TNN (e.g., QNR of Figure 5). Thus, the zinc finger nucleotide binding polypeptides of Desjarlais show a preference to CNN over ANN and TNN and are encompassed by the instant claims.

Because outstanding prior art rejections apply to claims 1-2, 4-7, 32-50, the claims fail to require a special technical feature that makes a contribution over the prior art.

Upon allowability of all claims directed to the elected invention, if all the process claims of Group III (Claims 59-74) depend from or otherwise require all the limitations of any allowable product claim, they may be considered for rejoinder per MPEP 821.04(b). Claims 59-74 which are drawn to methods of using the claimed compositions.

Furthermore, in the event that the generic claims, namely Claims 1, 2 were to become allowable, rejoinder of the particular zinc finger nucleotide binding polypeptides of Claims 8-31 would be considered, per MPEP 821.04(a).

DECISION

The petition is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for further action consistent with this decision and for consideration of the papers filed July 10, 2007.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Christopher Low
Director, Technology Center 1600 (Acting)
jb/jg

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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.
10/487,268	06/18/2004	Carlos F Barbas	8098-006-US-1	1465

32301 7590 01/09/2008
CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

EXAMINER
DUNSTON, JENNIFER ANN

ART UNIT	PAPER NUMBER
1636	

MAIL DATE	DELIVERY MODE
01/09/2008	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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Michael B. Farber
CATALYST LAW GROUP, APC
9710 SCRANTON RD
SUITE 170
SAN DIEGO, CALIFORNIA 92122

In re Application of	:
BARBAS, III et al	:
Serial No.: 10/487,268	:Decision on Petition
Filed : JUNE 18, 2004	:
Attorney Docket No.: 8098-006-US-1	:

This letter is in response to the request filed on 18 December 2007 for reconsideration of the Petition under 37 C.F.R. 1.144 and 1.181 filed on August 21, 2007 requesting withdrawal of the lack of unity requirement.

BACKGROUND AND DISCUSSION

This application is a national stage filing under 35 USC 371 of PCT/US02/26388 and, as such, is eligible for PCT unity of invention practice. The file history has been described in the previous petition decision.

The petition and file history have been carefully considered.

PCT Rule 13.2 states that unity of invention is present when the groups share a technical feature that makes a contribution over the prior art. PCT Example 39 in the ISPE Guidelines provides guidance on unity of invention between DNA and protein. If any prior art rejection is applicable to one of the inventions, then the DNA and protein do not share a same or corresponding special technical feature. PCT Rule 1.32 defines special technical feature as one which makes a contribution over the prior art.

At present, claims 1, 2, 4, 5, 33-35 are under final rejection as being anticipated by Desjarlais and Berg. Claims 45, 47, 48 and 50 are under final rejection as being obvious over Desjarlais and Berg, taken in view of Kadonaga et al.

Because outstanding prior art rejections apply to claims 1-2, 4-7, 32-50, the claims fail to require a special technical feature that makes a contribution over the prior art. The primary examiner has the authorization to determine whether claims are patentable; if applicants do not accept the examiner's position, a next recourse would be filing an appeal. The petition presents arguments concerning the merits of outstanding art rejections. These arguments should be presented in response to an Office action for consideration by the examiner or in an Appeal Brief for eventual consideration by the Board.

Should the Office decide that the claims to the elected invention share a technical feature which makes a contribution over the prior art, the examiner should then reconsider the claims to the non-elected inventions in terms of whether they share a technical feature with the elected invention that makes a contribution over the prior art. If so, the lack of unity determination would then be withdrawn.

DECISION

The petition is **DISMISSED** for the reasons set forth above.

Applicants remain under obligation to respond to the Final Office action within time period set, as extendable under 37 CFR 1.136(a).

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600
jb/jg

22 JUL 2004

#3

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David J. Cushing
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, D.C. 20037-3213

In re Application of
CHEVALLIER et al.
U.S. Application No. 10/487,272
PCT No.: PCT/FR02/02252
Int. Filing Date: 28 June 2002
Priority Date: 23 August 2001
Attorney Docket No.: Q79485
For: COMPRESSOR, DECOMPRESSOR, DATA BLOCK AND RESOURCE MANAGEMENT METHOD

DECISION ON REQUEST

This decision is in response to applicants' "Submission of Executed Declaration with Verified English Translation, Preliminary Amendment, Statement of Fourth Inventor, and Consent of Assignee" filed 09 July 2004 which is being treated as a Petition to Correct Inventorship under 37 CFR 1.497(d). The $130 petition fee will be charged to Deposit Account no. 19-4880.

BACKGROUND

On 28 June 2002, applicants filed international application PCT/FR02/02252 which claimed a priority date of 23 August 2001. The international application named Emmanuelle Chevallier; Jean Farineau; and Nicolas Chuberre as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 23 February 2004.

On 20 February 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee and a copy of the international application.

On 09 July 2004, applicants filed "Submission of Executed Declaration with Verified English Translation, Preliminary Amendment, Statement of Fourth Inventor, and Consent of Assignee." The declaration was executed by: Emmanuelle Chevallier; Jean Farineau; Nicolas Chuberre; and Cecile Faure.

DISCUSSION

In the instant case, the international application named Emmanuelle Chevallier; Jean Farineau; and Nicolas Chuberre as applicants/inventors. Applicants request to add Cecile Faure as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

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

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);

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

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

Applicants have satisfied items (1) and (3).

As to item (2), a review of the declaration filed on 09 July 2004 reveals that the declaration is defective pursuant to 37 CFR 1.497(a)(2) and 37 CFR 1.63(b)(1), in that, the declaration does not identify the specification to which it is directed. The declaration submitted is directed "for which a patent is sought on the invention in the specification identified by Docket Number No. 104663/SH/SSD." A review of the application reveals that a specification which is identified by Docket Number No. 104663/SH/SSD is not located therein. Therefore, applicants are required to submit a newly executed declaration which identifies the above identified application.

In regard to item (4) above, the written consent of the assignee is not acceptable. Section 201.03 of the M.P.E.P states in part that: "[t]he title of the party signing on behalf of a corporate assignee and the authority to do so should be set forth in the written consent. Consent of a corporate assignee may be signed by an officer (e.g., president, vice president, secretary, or treasurer) of the corporation or may include a statement in oath or declaration form that the person signing the consent has authority to do so. Further the assignee must establish its ownership of the application in accordance with 37 CFR 3.73." The consent of assignee is executed by Bernard Lamoureax, Patent Attorney, and the petition does not aver that the Patent Attorney has the authority to provide consent for the assignee. Therefore, applicants are requested to file an additional written consent of the assignee that provides the name and title of the individual with authority to act on behalf of the assignee.

For the reasons discussed above, it is inappropriate, at this time, to grant applicants

request for correction of inventorship.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(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

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22 NOV 2004
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David J. Cushing
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, D.C. 20037-3213

In re Application of	:	
CHEVALLIER et al.	:	
U.S. Application No. 10/487,272	:	
PCT No.: PCT/FR02/02252	:	
Int. Filing Date: 28 June 2002	:	DECISION ON REQUEST
Priority Date: 23 August 2001	:	
Attorney Docket No.: Q79485	:	
For: COMPRESSOR, DECOMPRESSOR, DATA BLOCK AND RESOURCE MANAGEMENT METHOD	:	

This decision is in response to applicants' "Response to Decision on Request" filed 22 September 2004, which is being treated as a Renewed Petition to Correct Inventorship under 37 CFR 1.497(d).

BACKGROUND

On 28 June 2002, applicants filed international application PCT/FR02/02252 which claimed a priority date of 23 August 2001. The international application named Emmanuelle Chevallier; Jean Farineau; and Nicolas Chuberre as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 23 February 2004.

On 20 February 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee and a copy of the international application.

On 09 July 2004, applicants filed "Submission of Executed Declaration with Verified English Translation, Preliminary Amendment, Statement of Fourth Inventor, and Consent of Assignee." The declaration was executed by: Emmanuelle Chevallier; Jean Farineau; Nicolas Chuberre; and Cecile Faure. In a "Decision on Request" dated 22 July 2004, applicants' petition under 37 CFR 1.497 was dismissed without prejudice.

On 22 September 2004, applicants filed the present renewed request under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Emmanuelle Chevallier; Jean Farineau; and Nicolas Chuberre as applicants/inventors. Applicants request to add Cecile Faure as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b). Applicants have satisfied items (1) and (3).

As to item (2), the declaration submitted on 09 July 2004 is defective pursuant to 37 CFR 1.497(a)(2) and 37 CFR 1.63(b)(1), in that, the declaration does not identify the specification to which it is directed. Applicants state that "MPEP 602(VI) sets forth criteria for sufficient identification of an application in an oath or declaration submitted subsequent to the original filing of the application . . . [t]he declaration submitted in this case included the PCT International application number (PCT/FR02/02252) and the filing date (June 28, 2002) very clearly at the beginning of the declaration." However, the declaration cannot be considered as complying with the minimum requirements for declarations set forth in MPEP 602, in that, the declaration contains conflicting information. The declaration submitted is directed "for which a patent is sought on the invention in the specification identified by Docket Number No. 104663/SH/SSD." A review of the application reveals that a specification which is identified by Docket Number No. 104663/SH/SSD is not located therein. Therefore, the declaration and transmittal letter are directed to different docket numbers. In such a case, the minimum information to identify the specification to which a declaration is directed does not apply. Thus, applicants are required to submit a newly executed declaration which identifies the above identified application.

In regard to item (4) above, the written consent of the assignee is executed by Bernard Lamoureax, Senior Intellectual Property Counsel, which avers that "the undersigned is authorized to act on behalf of the assignee." Therefore, applicants have satisfied item (4).

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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01 MAR 2005

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In re Application of
CHEVALLIER et al.
U.S. Application No. 10/487,272
PCT No.: PCT/FR02/02252
Int. Filing Date: 28 June 2002
Priority Date: 23 August 2001
Attorney Docket No.: Q79485
For: COMPRESSOR, DECOMPRESSOR, DATA BLOCK AND RESOURCE MANAGEMENT METHOD

DECISION ON REQUEST

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" filed 02 February 2005, which is being treated as a Renewed Petition to Correct Inventorship under 37 CFR 1.497(d).

BACKGROUND

On 28 June 2002, applicants filed international application PCT/FR02/02252 which claimed a priority date of 23 August 2001. The international application named Emmanuelle Chevallier; Jean Farineau; and Nicolas Chuberre as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 23 February 2004.

On 20 February 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee and a copy of the international application.

On 09 July 2004, applicants filed "Submission of Executed Declaration with Verified English Translation, Preliminary Amendment, Statement of Fourth Inventor, and Consent of Assignee." The declaration was executed by: Emmanuelle Chevallier; Jean Farineau; Nicolas Chuberre; and Cecile Faure. In a "Decision on Request" dated 22 July 2004, applicants' petition under 37 CFR 1.497(d) was dismissed without prejudice.

On 22 September 2004, applicants filed a renewed request under 37 CFR 1.497(d). In a "Decision on Request" dated 22 November 2004, applicants' petition under 37 CFR 1.497(d) was dismissed without prejudice.

On 02 February 2005, applicants filed a renewed request under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Emmanuelle Chevallier; Jean Farineau; and Nicolas Chuberre as applicants/inventors. Applicants request to add Cecile Faure as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b). Items (1),(3), and (4) were previously sastisfied.

Applicants have satisfied item (2).

CONCLUSION

The renewed request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have 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 June 2002 and a date of **02 February 2005** 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

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

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WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of	:	
Kenji Hisatomi	:	
Application No. 10/487,275	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. 2004-0254A	:	

This is a decision on the petition, filed December 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 25, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2854 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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LOVELAND, CO 80537

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OFFICE OF PETITIONS

In re Application of	:	
William S. Blake	:	
Application No. 10/487,298	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. 10100.001 USNP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 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 October 2, 2006 , 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 November 3, 2006. A Notice of Abandonment was mailed June 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election of the species to be examined, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center 3754 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Vandeputte, et al. :
Application No. 10/487,302 : ON PETITION
Filed: July 16, 2004 :
Attorney Docket No. 09997.0086USWO :
For: ULTRA HIGH STRENGTH STEEL COMPOSITION, THE PROCESS OF PRODUCTION OF AN ULTRA HIGH STRENGTH STEEL PRODUCT AND THE PRODUCT OBTAINED

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2008, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed May 10, 2007, which set a one month or thirty day (whichever was longer) shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no timely reply being received in the Office, this application became abandoned on June 11, 2007. A Notice of Abandonment was mailed on November 20, 2007.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1050.00 extension of time submitted with the petition was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

After the mailing of this decision, the file will be returned to Technology Center AU 1793 for consideration of the election filed on January 22, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Bo WANG	:	
Application No. 10/487,305	:	DECISION ON PETITION
Filed: September 27,2004	:	TO WITHDRAW
Attorney Docket No. 221612001100	:	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 22, 2005.

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

A review of the file record indicates that the power of attorney to Thomas Ciotti and attorneys associated with customer number 25226 has been revoked by the assignee of the patent application on December 19, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Michelle Bosch, Esq.
Finnegan Henderson Farabow Garrett & Dunner LLP
901 New York Avenue, NW
Washington, DC 20001-4413

07 FEB 2005

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Levine & Mandelbaum
444 Madison Avenue
35th Floor
New York, NY 10022

In re Application of	:	
Striuli	:	
Application No. 10/487,306	:	
PCT No.: PCT/IB02/03594	:	
Int. Filing Date: 04 September 2002	:	DECISION
Priority Date: 04 September 2001	:	
Atty. Docket No.: METR0640US	:	
For: Access Network For Mobile Tele-	:	
communications And Method For	:	
Developing Radio Coverage	:	

This is in response to the "Petition Under 37 CFR 1.181" filed on 08 July 2004.

BACKGROUND

This international application was filed on 04 September 2002, claimed an earliest priority date of 04 September 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 13 March 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 04 March 2004.

On 20 February 2004, applicants filed, *inter alia*, the basic national fee.

On 24 June 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

DISCUSSION

Petitioner indicates that a response to the Notification of Missing Requirements was filed on 15 March 2004, and presents a copy of that response and a copy of a returned postcard receipt to support his assertion. Review of the record reveals that the original copy of the response filed on 15 March 2004, including a declaration executed by the inventor, is present in the application file. Further review reveals that the surcharge under 37 CFR 1.492(e) was paid on 15 March 2004. As such, the petition is **MOOT**, and the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 24 June 2004 is **VACATED**.

Inspection of the declaration filed on 15 March 2004 reveals that it does not list the

residence and postal address of the inventor, nor is this information provided on an application data sheet under 37 CFR 1.76. The declaration is being accepted for purposes of compliance with 35 U.S.C. 371(c)(1), (2) and (4), but counsel will be required to submit either a newly executed declaration including the inventor's citizenship, postal address and residence, or an application data sheet providing the postal address and residence information.

DECISION

The petition is **DISMISSED AS MOOT**, without prejudice.

This application is being transmitted to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **15 March 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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23 SEP 2004

#5

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In re Application of	:	
JACKSON et al.	:	DECISION ON
Application No.: 10/487,339	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/EP02/09119	:	
Int. Filing Date: 13 August 2002	:	
Priority Date: 11 September 2001	:	
Attorney Docket No.: 118492	:	
For: COATING COMPOSITION FOR METAL SUBSTRATES		

This decision is in response to the declaration filed 07 May 2004 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 13 August 2002, applicants filed international application PCT/EP02/09119, which claimed a priority date of 11 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 March 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 11 March 2004.

On 20 February 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of an international application; and a preliminary amendment.

On 07 May 2004, applicants filed a declaration and power of attorney executed by: Paul A.. Jackson as inventor and Gillian Diane Davies on behalf of deceased inventor, Gerald H. Davies.

On 22 June 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).

On 28 July 2004, applicants filed an information disclosure statement.

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 07 May 2004 was executed by Gillian Diane Davies as "legal representative" of the deceased inventor, Gerald H. Davies. 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 13 August 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **07 May 2004**.

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

Anthony Smith

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13 OCT 2005

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FOLEY & LARDNER
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Washington, DC 20007

In re Application of	:	
KOBAYASHI, Shin-Ichi, et al.	:	
U.S. Application No.: 10/487,354	:	DECISION ON PETITION
PCT No.: PCT/JP03/06429	:	UNDER 37 CFR 1.182
International Filing Date: 22 May 2003	:	
Priority Date: 24 May 2002	:	
Attorney's Docket No.: 017700-0160	:	
For: METHOD OF MANUFACTURING OXIDE	:	
SUPERCONDUCTING WIRE	:	

This decision is issued in response to the "2nd Request For Corrected Filing Receipt" filed 18 February 2005 (and resubmitted by facsimile on 06 October 2005), treated herein as a petition under 37 CFR 1.182 to treat the present application as a national stage for the above captioned international application, and not for the international application indicated on the originally filed Transmittal Letter and Application Data Sheet (ADS). Deposit Account No. 19-0741 will be charged the required petition fee.

BACKGROUND

On 22 May 2003, applicants filed international application PCT/JP03/06429 which claimed a priority date of 24 May 2002 and which designated the United States. On 04 December 2003, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 24 November 2004.

On 20 February 2004, 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, a translation into English of the international application, an ADS, and an executed declaration in compliance with 37 CFR 1.497. The first page of the Transmittal Letter and the ADS identified the application as a national stage of PCT/JP03/02449, filed 03 March 2003.

Based on the international application number listed on the first page of the Transmittal Letter and the ADS, the present application file was established as a national stage of PCT/JP03/02449.

On 18 May 2004, applicants filed a supplemental ADS which identified the application as a national stage of PCT/JP03/06429, filed 22 May 2003.

On 16 July 2004, the USPTO mailed a Notification Of Acceptance indicating that the application was a national stage of PCT/JP03/02449 (the filing receipt also listed the application as a national stage of PCT/JP03/02449).

On 04 August 2004, applicant filed a "Request For Corrected Filing Receipt" seeking a correction of the domestic and foreign priority information listed on the filing receipt. Specifically, applicant requested that the application be identified as a national stage of PCT/JP03/06429 (filed 22 May 2003), with priority claims to two Japanese applications and to PCT/JP03/02449.

On 18 February 2005, applicant filed the "2nd Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.182 to treat the present application as a national stage for the above captioned international application, and not for the international application indicated on the originally filed Transmittal Letter and Application Data Sheet (ADS).

DISCUSSION

As noted above, the first page of the Transmittal Letter and the ADS filed by applicants to initiate this national stage application identified the submission as a national stage of PCT/JP03/02449. The present submission and the supplemental ADS filed by applicants on 18 May 2004 confirm that the listing of PCT/JP03/02449 on the original application materials was incorrect, and that the application was intended as a national stage of PCT/JP03/06429.[1] Because the present application was created as a national stage of PCT/JP03/02249 based on applicants' original submission, correction of the application to indicate that it is a national stage of PCT/JP03/06429 requires a petition under 37 CFR 1.182. The request for corrected filing receipt has been treated as such a petition. Applicants have previously authorized a charge to Deposit Account No. 19-0741 for required fees; based on this authorization, Deposit Account No. 19-0741 will be charged the required $400 petition fee.

The petition to treat the present application as a national stage of PCT/JP03/06429 is granted. The Notification Of Acceptance and filing receipt mailed 16 July 2004 (both of which indicate that the application is a national stage of PCT/JP03/02449), are appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.182 **GRANTED**.

Deposit Account No. 19-0741 will be charged $400 as the required petition fee.

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[1] It is noted that the second page of the Transmittal Letter, the verification of translation, and the declaration filed 20 February 2004 each listed the correct international application number, PCT/JP03/06429.

USPTO records will be corrected to indicate that the present application is the national stage of PCT/JP03/06429 with an international filing date of 22 May 2003 and priority claims to JP 2002-150963 (24 May 2002), JP 2002-325243 (08 November 2002), and PCT/JP03/02449 (03 March 2003).

The Notification Of Acceptance and filing receipt mailed 16 July 2004 are hereby **VACATED** based on their identification of the present application as a national stage of PCT/JP03/02449.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing in accord with this decision, including: (1) correcting USPTO records so as to identify the present application as a national stage of PCT/JP03/06429; and (2) issuing a corrected Notification Of Acceptance and corrected filing receipt which properly identify the application as a national stage of PCT/JP03/06429 and include the proper priority information.

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17 AUG 2004

#3

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Leo H. McCormick, Jr.
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In re Application of: BOISSEAU, Jean-Pierre	:	
U.S. Application No.: 10/487,364	:	DECISION ON PETITION TO
PCT No.: PCT/FR02/02118	:	REVIVE ABANDONED
International Filing Date: 19 June 2002	:	APPLICATION UNDER 37
Priority Date: 21 June 2001	:	CFR 1.137(b)
Attorney's Docket No.: 825-01-509	:	
For: MOTOR VEHICLE DISC BRAKE WITH	:	
MOVEMENT CONVERTER	:	

The petition to revive under 37 CFR 1.137(b) filed 20 February 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing this application from the due date until the filing of a grantable petition under to 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that applicant's 20 February 2004 submission included a translation of the international application into English and an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 02-3222 will be charged the $130 processing fee for filing the translation later than thirty months after the priority date and $130 as the surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 20 February 2004.

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PCT Legal Office
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17 JUN 2004

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In re Application of
PORCHET, Regis *et al*
U.S. Application No.: 10/487,365
PCT No.: PCT/FR02/02112
Int. Filing Date: 19 June 2002
Priority Date: 21 June 2001
Attorney Docket No.: 825-01-504
For: HYDRAULIC RESERVOIR, BRAKING DEVICE COMPROMISING SUCH A RESERVOIR . . .

DECISION ON PETITION FOR REVIVAL 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 with the national stage papers in the above-captioned application on 20 February 2004 is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee of $1,330.00 have been paid. 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.

The additional petition fee of $130.00submitted is not required but has been used to pay the $130.00 surcharge fee pursuant to 37 CFR 1.492(e).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 June 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 20 February 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

29 JUL 2004

#5

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In re Application of	:	
Philippe Richard et al	:	
Application No.: 10/487366	:	
PCT Application No.: PCT/FR02/02117	:	DECISION ON
International Filing Date: 19 June 2002	:	
Priority Date: 21 June 2001	:	PETITION UNDER
Attorney Docket No.: B25-01-508	:	
For: PNEUMATIC BARKE BOOSTER EQUIPMENT WITH A CONTROL ROD AND METHOD FOR MOUNTING	:	37 CFR 1.137 (b)

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 20 February 2004, to revive the above identified application.

BACKGROUND

On 19 June 2002, applicant filed international application number PCT/FR02/021117 which claimed priority to an earlier filed French application 01/08306 filed on 21 June 2001.

On Midnight 21 December 2003, the above identified application became abandoned for failure to provide the full US Basic National Fee by 30 months (37 CFR 1.495 (b)(2)).

On 20 February 2004, applicant submitted a petition for revival.

DISCUSSION

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

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01 FC:1453

On 20 February 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $1330 Petition fee (large entity); (2) a Transmittal Letter for entry into the national stage in the United States of America under 35 U.S.C. 371 along with the requisite 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," plus $130 fee for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492 (f).

The application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.137 (b).

CONCLUSION

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

Applicant is hereby notified the declaration submitted on 20 February 2004 is in compliance with 37 CFR 1.497 (a) and (b). Accordingly the application has met all the National Stage requirements under 35 USC 371 and will be accorded 35 USC 371 date of 20 February 2004.

This application is being forwarded to the National Stage Processing Division for further processing.

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SEP 15 2008

In re Application of	:	
NOGUEIRA, Ciro	:	
Application No. 10/487,370	:	DECISION ON PETITION
Filed: February 18, 2004	:	TO WITHDRAW
Attorney Docket No. **BCNOG 1030897**	:	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 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Laurie A. Axford on behalf of all attorneys of record who are associated with customer No. 27111. 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 first named inventor Ciro Nogueira at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed February 21, 2008

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CIRO NOGUEIRA**
AV. BRIG. FARIA LIMA
2369, CJ. 1606 CEP 01452-000
SAO PAULO, BRAZIL

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MR. JOSEPH S. TRIPOLI
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OFFICE OF PETITIONS

In re Application of	:	
Henry, Jean-Baptiste	:	
Application No. 10/487,381	:	ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. PF010094	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 2454 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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28 SEP 2006

Fulbright & Jaworski, LLP
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In re Application of CORDES et al. Application No.: 10/487,390 PCT No.: PCT/EP02/08613 Int. Filing Date: 02 August 2002 Priority Date: 22 August 2001 Attorney Docket No.: HO-P02934USO For: PACKAGING FOR A PLURALITY OF INDIVIDUAL PRODUCTS PACKAGED IN INDIVIDUAL PACKAGINGS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 August 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted an executed declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Anthony Smith

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3 0 JUN 2008

Fulbright & Jaworski, LLP
1301 McKinney
Suite 5100
Houston, Texas 77010-3095

In re Application of CORDES et al. U.S. Application No. 10/487,390 PCT No.: PCT/EP02/08613 Int. Filing Date: 02 August 2002 Priority Date: 22 August 2001 Attorney Docket No.: HO-P02934USO For: PACKAGING FOR A PLURALITY OF INDIVIDUAL PRODUCTS PACKED IN INDIVIDUAL PACKAGINGS	: : : : : : : :	DECISION ON PETITION

This decision is issued in response to applicants' Request for Refund filed 22 May 2007.

The request is **DISMISSED**.

This application became abandoned for failure to reply in a timely manner to the Notification of Missing Requirements, mailed 19 July 2004. The Notice set a period for reply of TWO MONTHS. No reply having been received, the application became abandoned on 19 September 2004. The Office mailed a Notice of Abandonment on 03 August 2006. Applicant filed a petition to revive under 37 CFR 1.137(b) on 25 August 2006. The petition was granted on 28 September 2006.

On 12 October 2006, the Office mailed a Notice entitled: "Withdrawal Of Previously Sent Notice" stating that the "Notice of Abandonment mailed on 03 August 2006, was sent in error and is hereby withdrawn." However, the Office erred in mailing the Notice entitled "Withdrawal Of Previously Sent Notice," since the application was properly abandoned on 19 September 2004.

Further, it is noted that the phrase "[o]n filing" in 35 U.S.C. 41(a) (7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied.

The Office sincerely apologizes for the error in the mailing of the Notice on 12 October 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3298.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration

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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,827,559	:	
Issue Date: December 7, 2004	:	
Application No. 10/487,423	:	
Filed: July 1, 2002	:	
Attorney Docket No. 35056-515	:	

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

14 JAN 2005

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
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BOSTON, MA 02111

In re Application of ANGELICO, Paul J. et al. Application No.: 10/487,430 PCT No.: PCT/US02/26065 Int. Filing Date: 16 August 2002 Priority Date: 24 August 2001 Attorney's Docket No.: 14859-022 NATL For: USE OF A NATURAL-OIL BYPRODUCT AS A REDUCED-EMISSIONS ENERGY SOURCE	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Response to Notification of Missing Requirements," filed in the United States Patent and Trademark Office on 03 November 2004. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 16 August 2002, applicants filed international application PCT/US02/26065, claiming a priority date of 24 August 2001. The deadline for submitting the basic national fee to prevent abandonment of the international application as to the United States expired at midnight of 24 February 2004.

On 20 February 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 June 2004, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors was required.

On 03 November 2004, applicants filed a declaration of the inventors accompanied by the fee for a three month extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 C.F.R. 1.42.

The declaration is executed by the inventor and the legal representative of the deceased inventor. The declaration lists the necessary information for the inventors and the legal representative. The declaration complies with 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

CONCLUSION

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

The application has an international filing date of 16 August 2002 under 35 U.S.C. §363 and a date of 03 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 M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
JUL 20 2009
OFFICE OF PETITIONS

In re Application of :
Angelico et al. :
Application No. 10/487,430 :
Filed: November 3, 2004 :
Attorney Docket No. 14859-022 :
NATL

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed June 2, 2009. Applicants request that the determination of patent term adjustment be corrected from eight hundred twenty-six (826) days to one thousand ten (1010) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

Via EFS
Date of Deposit: June 2, 2009

Attorney Docket No.: 14859-022 NATL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS :	Angelico, *et al.*	CONFIRMATION NO. :	7939
SERIAL NUMBER :	10/487,430	EXAMINER :	Cephia D. Toomer
FILING DATE :	November 3, 2004	ART UNIT :	1797
FOR :	USE OF A NATURAL-OIL BYPRODUCT AS A REDUCED-EMISSIONS ENERGY SOURCE		

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

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)

Applicants request reconsideration of patent term adjustment for the above-referenced application. Also enclosed is the two-hundred dollar fee as required by 37 C.F.R. § 1.18(e).

Applicants received a Notice of Allowance and Fees Due from the U.S. Patent and Trademark Office, mailed on March 3, 3009, which stated that the Patent Term Adjustment under 35 U.S.C. 154(b) to date is 826 days. By this paper, Applicants hereby petition the U.S. Patent and Trademark Office for reconsideration of the patent term adjustment calculation to **1010 days,** based on the facts provided herein. This Request is submitted in view of the decision by the U.S. District Court decision in Wyeth v. Dudas (D.D.C. 2008) on September 30, 2008.

This patent application is a national stage filing of an international application that was filed on August 16, 2002 and is therefore subject to the patent term adjustment procedures set forth in 37 C.F.R. §§ 1.702 to 1.705 for applications filed on or after May 29, 2000.

The national stage proceedings commenced under 35 USC 371(b) or (f) on for this application on February 20, 2004.

On June 9, 2004, the Office mailed the Notice of DO/EO Missing Requirements.

On November 3, 2004 Applicants filed the response to the Notice of DO/EO Missing Requirements, which is also the date the Application Fulfilled Requirements of 35 USC 371. This response was filed 55 days after the day after the date that is 3 months after the mailing of

the Notice. This delay was not accounted for in the Office's calculation of Patent Term Adjustment.

On April 8, 2008, the Office mailed a Non-Final Office Action. The action was mailed 826 days after the fourteen month requirement for mailing of the first action after the fulfillment of requirements 35 USC 371. As shown in the PAIR printout included as Exhibit A, the number of days of Patent Term Adjustment accounts for the 826 day Office delay.

On July 1, 2008, Applicants filed a Response to the Non-Final Office Action. This response was received by the Office within three-months of the mailing date of the action.

On October 21, 2008, the Office mailed a Notice of Allowance/Notice of Allowability. The Notice of Allowance was mailed within the 4 month requirement for mailing an Office Communication after the date on which the reply by Applicants was filed.

On December 4, 2008, Applicants filed a Request for Continued Examination in lieu of paying the Issue Fee. This Request was received by the Office within three-months of the mailing date of the Notice of Allowance.

On October 3, 2009, the Office mailed the Notice of Allowance /Notice of Allowability, and the Determination of Patent Term Adjustment for this application. The Notice of Allowance was mailed within the 4 month requirement for mailing an Office Communication after the date on which the reply by Applicants was filed. The Determination of Patent Term Adjustment noted an adjustment period for this patent application of 826 days.

According to the provisions of 37 C.F.R. §1.702(b), Applicants are entitled to Patent Term Adjustment for the failure of the Office to issue the patent within three years after the date on which the application was filed. Under 37 C.F.R. §1.702(b)(1)-(5), Applicants are entitled to this adjustment for any time other than any time consumed by continued examination of the application requested by the applicant under section 132(b), beginning on the date on which a Request for Continued Examination was filed, December 4, 2008, and ending on the date the patent issues.

The amount of the Adjustment under 37 C.F.R. §1.702(b) is calculated from February 21, 2007 (*i.e.*, the day after the date that is three years from the date that the national stage commenced), to the date the date the Request for Continued Examination was filed, December 4, 2008, subtracting only time legitimately attributable to applicant delay. Applicants submit that the Adjustment under 37 C.F.R. §1.702(b) is 652 days total.

Applicants have calculated the Patent Term Adjustment based on 37 C.F.R. 1.702(a), 37 C.F.R. 1.702(b) and 37 C.F.R. 1.704 through the payment of the Issue Fee submitted herewith. Applicants submit that an additional 102 days of Office delay should be included, under 37 C.F.R. 1.702(b), in calculating the total Patent Term Adjustment. Accordingly, the total calculation of Patent Term Adjustment is as follows: Office delay: 652+826 = 1478 days; Applicant delay: 55 days; and 413 overlap days; adjustment: 1478-55-413 = 1010 days.

Applicants respectfully request that the Patent Term Adjustment be increased from 826 days, as reported on the Determination of Patent Term Adjustment under 35 U.S.C. 154 (b), to 1010 days.

Applicants reserve the right to request any further patent term adjustment based on the actual issue date of the instant application.

If the Office would like to discuss any aspect of this filing, the Office representative assigned to process this request is welcome to call the undersigned attorneys. No additional fees are believed to be due by submission of this paper. However, the Office is authorized to charge such fee, or credit any overpayment in fees to Deposit Account No. **50-0311**, Customer Number **30623**, Attorney Docket No. 14859-022 NATL.

Respectfully submitted,

Ido Rabinovitch, Reg. No. L0080
Attorney for Applicant
c/o MINTZ LEVIN
Telephone: (617) 542-6000
Facsimile: (617) 542-2241
Customer No. 30623.

Date: June 2, 2009

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED
MAR 15 2010

In re Patent No. 7,575,608	:
Angelico et al.	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/487,430	: PATENT TERM ADJUSTMENT
Filed: November 3, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 14859-022	: TO ISSUE CERTIFICATE OF
NATL	: CORRECTION
Title: Use of A Natural-Oil	:
Byproduct As A Reduced	:
Emissions Energy Source	:

This is a decision on the petition filed on October 9, 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 ten (1010) days. This requested correction includes, pursuant to their duty of candor and good faith to the Office, an additional period of reduction of 55 days[1].

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 ten (1010) days is **GRANTED.**

It should however be noted that the "B" delay period is 648 days, not 652 days. Patentees calculated this period based on the request for immediate examination filed February 20, 2004. However, in an international application, this period is based on the failure of the Office to issue a patent within three

[1] Patentees have informed the Office that a 55 day reduction is warranted pursuant to 37 CFR 1.704(b) for the submission of a reply to the Missing Parts of June 9, 2004. Patentees submitted a reply in the form of a declaration on November 3, 2004, which was fifty-five (55) days in excess of the three-month reply period.

years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 37 CFR 1.702(b). The priority date of this application is August 24, 2001. As the requirements for early commencement were not met, the national stage commenced in this application on February 24, 2004. Thus, "B" delay is 648 days, counting the number of days beginning on February 25 2007 and ending on December 3, 2008, the day before the filing of the Request for Continued Examination (RCE), and not the date the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i).

As such the overlap is calculated as 409 days (February 25, 2007 through April 8, 2008), not 413 days.

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 ten (1010) days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-0311. No additional fees are required.

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

/Kery A. Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,575,608 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Angelico 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 826 days

Delete the phrase "by 826 days" and insert – by 1010 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Paul J. Angelico	: DECISION ON REQUEST FOR
Patent Number	: 7575608	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070531

DATE : May 31, 2007

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction on Patent No.: 6982534

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:

LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

SPE: Lincoln Dononvan **Art Unit** 2837

19 APR 2006

#7

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

In re Application of DIRKS et al	:	
U.S. Application No.: 10/487,468	:	
PCT Application No.: PCT/EP02/09526	:	DECISION
Int. Filing Date: 23 August 2002	:	
Priority Date Claimed: 23 August 2001	:	
Attorney Docket No.: 0702-040081	:	
For: REVERSE BREEDING	:	

This is in response to applicant's "Petition to Correct Inventorship in a Nonprovisional Patent Application Under 37 C.F.R. §1.48(a)" filed 03 April 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

On 23 August 2002, applicant filed international application PCT/EP02/09526, which claimed priority of an earlier European Patent Office application filed 23 August 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 23 February 2004.

On 20 February 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 03 April 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> 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 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, the requisite written consent of the assignee has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 August 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 03 April 2006.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 19, 2008

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/487470 Patent No.: 7152907 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3612
Art Unit

#2

United States Patent and Trademark Office

28 JUN 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Morrison & Foerster LLP
1650 Tysons Blvd.
Suite 500
McLean, VA 22102

In re Application of	:	
Karos et al.	:	
Application No. 10/487,476	:	
PCT No.: PCT/EP02/09454	:	
Int. Filing Date: 23 August 2002	:	DECISION
Priority Date: 23 August 2001	:	
Atty. Docket No.: 532622004000	:	
For: Novel Metabolism-Adjusted Gene	:	
Products From Ashbya Gossypii	:	

This is in response to the "Request For Withdrawal As Attorney Or Agent" filed on 25 February 2005.

DISCUSSION

Counsel requests permission to withdraw as attorney of record, "on behalf of myself and the attorneys/agents associated with Customer Number 25227," on the basis that the "Application is being transferred to another attorney." Review of the application file reveals that the attorney who signed the "Request..." is not currently of record in this case. Therefore, the request for permission to withdraw is **MOOT**. Moreover, counsel's request to change the correspondence address of record is inappropriate in the absence of a proper power of attorney

DECISION

The petition is **DISMISSED AS MOOT**, for the reasons described 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. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

29 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lackenbach Siegel LLP
One Chase Road
Scarsdale, NY 10583

In re Application of NUSBAUM et al. Application No.: 10/487,483 PCT No.: PCT/FR02/02655 Int. Filing Date: 24 July 2002 Priority Date: 31 July 2001 Attorney Docket No.: P-0408 BJ For: DEVICE FOR CLOSING A CONTAINER AND FOR DRAWING A FLUID PRODUCT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 February 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the January 31, 2004 to the filing of the accompanying Petition to Revive under 37 CFR 1.137(b) was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the proper reply, that is, payment of the basic national fee of $920, was provided. The required petition fee of $1330 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.

The declaration filed with the international application is unacceptable for entry into the U.S. national stage because it does not meet the requirements of 37 CFR 1.497. 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. The declaration filed during the international stage contains two identical declaration pages which do not identify all inventive entities. One declaration identifies only Nusbaum and Granier as inventors, while the second declaration identifies Jubany Claret and Aran Gracia as the inventors. Further, the declarations submitted do not identify the PCT application to which they are directed. Applicant has presented two separate complete declarations which were pieced together into one composite declaration. What is required is one declaration where all inventors have signed. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 1.497(a) and (b), is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

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

30 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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David W. Highet
BECTON DICKINSON AND COMPANY
1 Becton Drive
Franklin Lakes, NJ 07417-1880

In re Application of	:	
KAESTNER et al.	:	
Application No.: 10/487,485	:	
PCT Application No.: PCT/US01/50436	:	DECISION ON
International Filing Date: 28 December 2001	:	
Priority Date: 13 April 2001	:	PETITION
Attorney Docket No.: P-5559	:	
For: A METHOD AND DEVICE FOR DELIVERY OF HIGH MOLECULAR SUBSTANCES	:	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 23 February 2004 is **GRANTED**.

BACKGROUND

On 28 December 2001, applicants filed international application PCT/US01/50436. The international application claims a priority date of 13 April 2001 and designates the United States. Accordingly, the deadline for payment of the basic national fee for the National Stage in the United States is thirty months from the priority date, that is 14 October 2003 (13 October 2003 was a national holiday).

On 23 February 2004, applicants filed the instant petition to revive the application accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the appropriate 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).

Applicants' statement in the 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). The payment of the basic national fee satisfies 37 CFR 1.137(b)(1) regarding a proper reply. The payment of the petition fee 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 Notification of Missing Requirements (PCT/DO/EO/905), requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).

Boris Milef
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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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

Mail Date: 04/21/2010

Applicant	: Hiroshi Kanoh	: DECISION ON REQUEST FOR
Patent Number	: 7612847	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,496	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1655** 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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PHILIP G. MEYERS LAW OFFICE
1009 LONG PRAIRIE ROAD, SUITE 300
FLOWER MOUND TX 75022

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APR 14 2006

OFFICE OF PETITIONS

In re Application of
Armin Zimmerman
Application No. 10/487,507
Filed: February 20, 2004
Attorney Docket Number: 300001-0129
Title of Invention: Device For Separating Postal Items According to Thickness Classes

ON PETITION

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed October 6, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 7, 2006. A Notice of Abandonment was mailed on February 27, 2006.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND OH 44131

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of :
Johnson, et al. :
Application No. 10/487,515 : ON PETITION
Filed: July 6, 2004 :
Attorney Docket No. 020357 082P2 :
For: LIGHT WEIGHT PLASTIC TRIM PARTS AND METHODS OF MAKING SAME

This is a decision on the petition, filed April 4, 2007, under 37 CFR 1.137(a) to revive the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**. Pursuant to petitioners' authorization, the $500.00 petition fee submitted on April 4, 2007 will be credited to deposit account no. 50-2431.

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed December 5, 2006, which set a non-extendable period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on March 6, 2007. A Notice of Abandonment was mailed on April 12, 2007.

A review of the application file reveals that the December 5, 2006 Notice of Allowance and Fee(s) Due and the Notice of Allowability were returned to the Office on December 6, 2006 with a Buchanan Ingersoll & Rooney P.C. receipt stamp affixed thereto. It is apparent that the December 5, 2006 Notices were delivered to an incorrect address.

Therefore, the petition under 37 CFR 1.181 is granted, the holding of abandonment is withdrawn, and the April 12, 2007 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with the Rule 181 petition.

Petitioners have submitted a completed PTOL-85B and paid the issue and publication fees. Therefore, it is unnecessary to re-mail the Notices with new period set for reply.

After the mailing of this decision, the application will be forwarded to Publications Division for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

15 JUL 2004

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

In re Application of	:	
TIEMANN (deceased)	:	DECISION ON
Application No.: 10/487,519	:	
PCT No.: PCT/EP02/09615	:	PAPERS
Int. Filing Date: 28 August 2002	:	
Priority Date: 03 September 2001	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 2001p09638WOUS	:	
For: COMBUSTION CHAMBER INTERMEDIATE	:	
PART FOR A GAS TURBINE	:	

This is a decision on the submission filed by applicant on 18 February 2004, which was accompanied by, *inter alia*, a declaration of the inventor. The indication in this declaration that inventor Tiemann is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 August 2002, applicant filed international application PCT/EP02/09615 which claimed a priority date of 03 September 2001 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 March 2004.

On 18 February 2004, applicant filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of the inventor signed by Iris Oltmanns as legal representative of Peter Tiemann.

DISCUSSION

The declaration filed 18 February 2004 fails to comply with 37 CFR 1.497(a)-(b). It is not clear from the declaration whether the information below Iris Oltmanns's name is her residence, mailing address, and citizenship, or if it is the residence, mailing address, and citizenship of Peter Tiemann. Additionally, the declaration does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name *and citizenship* of the deceased inventor (37 CFR 1.497(a)(3)).

CONCLUSION

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

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

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

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21 DEC 04

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

In re Application of	:	
TIEMANN (legally incapacitated)	:	DECISION ON
Application No.: 10/487,519	:	
PCT No.: PCT/EP02/09615	:	PAPERS
Int. Filing Date: 28 August 2002	:	
Priority Date: 03 September 2001	:	UNDER 37 CFR 1.43
Attorney's Docket No.: 2001p09638WOUS	:	
For: COMBUSTION CHAMBER INTERMEDIATE	:	
PART FOR A GAS TURBINE	:	

This is a decision on applicant's "RENEWED PETITION UNDER 37 CFR 1.43" filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 13 October 2004.

BACKGROUND

On 28 August 2002, applicant filed international application PCT/EP02/09615 which claimed a priority date of 03 September 2001 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 March 2004.

On 18 February 2004, applicant filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of the inventor signed by Iris Oltmanns as legal representative of Peter Tiemann.

On 15 July 2004, a decision was mailed dismissing applicant's request for status under 37 CFR [1.43].

On 13 October 2004, applicant submitted the instant "RENEWED PETITION UNDER 37 CFR 1.43" which was accompanied by, *inter alia*, a second declaration of the inventor signed by Iris Oltmanns as legal representative of Peter Tiemann.

DISCUSSION

The submission filed 13 October 2004 has been reviewed and has been found in compliance with 37 CFR 1.43. The declaration filed 13 October 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.43 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: (571) 272-3301
Facsimile: (571) 273-0459

23 JUN 2004
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#3

Robert M. McDermott, ESQ.
1824 Federal Farm Road
Montross, VA 22520

In re Application of	:	
Wolfdietrich Georg KASPERKOVITZ	:	
Application No.: 10/487,527	:	
PCT Application No.: PCT/EP02/08644	:	DECISION ON
International Filing Date: 01 August 2002	:	
Priority Date: 06 August 2001	:	PETITION
Attorney Docket No.: ITOM 031217	:	
For: INTEGRATED RC FILTER	:	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 21 February 2004 is **GRANTED**.

BACKGROUND

On 01 August 2002, applicant filed international application PCT/EP02/08644. The international application claims a priority date of 06 August 2001 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent an Trademark Office on 20 February 2003. The deadline for payment of the basic national fee in the United States National Stage was thirty months from the priority date, that is 06 February 2004. Applicant missed this deadline.

On 21 February 2004, 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), a declaration of the inventor as required by 35 U.S.C. 371(c)(4), payment of the surcharge ($65) for filing the declaration of the inventor later than thirty months from the priority date, and payment of $650 with respect to the petition fee. The petition authorized payment of any additional fees to Applicant's Deposit Account.

On 08 March 2004, the USPTO erroneously charged $110 to Applicant's Credit Card with respect to filing a petition to revive an application which was unavoidably abandoned, which applicant never filed.

On 16 March 2004, applicant authorized payment of an additional $15 with respect to the

petition fee, bringing the total petition fee payment to $665, as required by 37 CFR 1.17(m) for small entity.

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). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

The petition states, "the entire delay in filing the application from the expiration of 30 months from the priority date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is interpreted as a statement, satisfying 37 CFR 1.137(b)(3), 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, which interpretation. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect. The payment of the basic national fee satisfies 37 CFR 1.137(b)(1). The full payment of the petition fee 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.

Although the petition prescribed only $650 for the petition fee, the authorization in the petition to charge any additional fees establishes a date of payment of the petition fee as being 21 February 2004, the date the petition was filed.

Applicant is due a refund of $110 since applicant never filed a petition to revive the application from unavoidable abandonment (under 37 CFR 1.137(a)). A refund of $110 has been credited to applicant's credit card account.

Payment of the national stage fee satisfies 35 U.S.C. 371(c)(1). The copy of the international application from the International Bureau 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.

Applicants have satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 01 August 2002 under 35 U.S.C. 363 and a date of 21 February 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.

Leonard Smith
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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2-22-08

In re application of	Pabst et al.	: DECISION ON
Serial no.	10/487,536	: PETITION
Filed:	February 24, 2004	:
For:	EMULSIFYING AGENT	
COMPOSITION AND LOW-FOGGING, HIGH EXHAUST		:
STUFFING AGENT AND UTILIZATION THEREOF		:

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed September 17, 2007.

On December 23, 2005, a first non-final office action was mailed. Applicant
On July 11, 2006, a second non-final office action was mailed. Applicant amended the claims and the examiner applied new art. On Septemeber 17, 2007, the examiner issued a final office action.

On November 8, 2007, applicant filed the instant petition under 37 CFR 1.181 to formally request the withdrawal of the finality of the September 17, 2007 office action.

Applicant's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by Applicant's amendment to the claims.

DECISION

As set forth in the petition, the standard for making an Office action final is set forth in section 706.07(b) of the MPEP which states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The 103 over Rosser of the final rejection included a new rejection not necessitated by amendment.

The petition is **GRANTED.**

The application will be forwarded to the examiner for further consideration.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael Byrne
NOVAK DRUCE + QUIGG, LLP
1300 EYE ST. NW
WASHINGTON, D.C. 20005

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

5/18/07

In re Application of:
FAYARD, JEA-CLAUDE
Serial No. 10/487,544
Filed: Feb. 24, 2004
Docket: Plas-019
Title:
METHOD FOR REGENERATING AN EXHAUST GAS FILTERING DEVICE FOR DIESEL ENGINE AND DEVICE THEREFOR

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed May 11, 2007 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Apr. 12, 2007.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Apr. 12, 2007 is hereby withdrawn. The examiner has been instructed to issue an Office action not inconsistent with this decision.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2006

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/487581 Patent No.: 7,071,123 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE

2812

Art Unit

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 05/03/2010

Applicant	: Norman Mills	: DECISION ON REQUEST FOR
Patent Number	: 7611769	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/487,585	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **907** 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.

03 MAR 2004

#3

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Douglas A. Sorensen
Sidley Austin Brown & Wood, LLP
717 N. Harwood, Suite 3400
Dallas, TX 75201

In re Application of NELMS et al. Serial No.: 10/487,590 PCT App. No.: PCT/US02/22933 Int'l Filing Date: 17 July 2002 Priority Date: 20 July 2001 Attorney Docket No.: DSC-7B For: CREDIT CARD WITH CASE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's petition under 37 CFR 1.137(b) filed 06 February 2004 to revive international application PCT/US02/22933 as to the United States abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as follows:

International application PCT/US02/22933 became abandoned as to the United States of America after midnight on 20 January 2004 for failure to pay the basic national fee. The filing of the present national stage application under 35 U.S.C. 371(c) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

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). The petition fee of $1300 will be charged to applicant's deposit account, along with the basic national fee. All of the requirements of 37 CFR 1.137(b) for revival have been submitted.

This application is being forwarded to United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) &(b), and the surcharge for filing the oath or declaration after the thirty month period, are required.

Cynthia M. Kratz

Cynthia M. Kratz
PCT Attorney
Office of PCT Legal Administration

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

Kratz, Cynthia

From: pct.infoline@wipo.int
Sent: Wednesday, March 03, 2004 5:57 AM
To: Kratz, Cynthia
Subject: Re: FW: PCT/US02/22933

Good morning,

According to our records, a demand has been filed for the above referenced IA - on 5 Feb 03 at the PCT Authority and received at IB on 18 Feb 03.
US is elected.

With best regards,

Anne Mackie
Clerk
PCT Information Services Section

>>> "Kratz, Cynthia" <Cynthia.Kratz@USPTO.GOV> 03/02/04 10:25PM >>>

> GOOD DAY: Would you kindly confirm if a Demand was filed in this application, when it was filed and if the US was elected? Thank you for your assistance.
>
> Cynthia M. Kratz
> Attorney
> PCT Legal Office
>
> 703-306-5467
>

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

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JUL 25 2006
OFFICE OF PETITIONS

In re Patent No. 7,008,466 :
Issued: March 7, 2006 :
Application No. 10/487,596 : ON PETITION
Filed: February 24, 2004 :
Attorney Docket Number: 608-419 :

This is a decision on the petition, filed March 22, 2006, under 37 CFR 1.183, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is BP Exploration Operating Company Limited, and seeks to correct an error on the face of the patent. Petitioner does not indicate that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent however it will be so construed. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request is accompanied by a certificate of correction. Office assignment records reflect that Eastman Kodak Company is the assignee of record. Although the fee

---

[1] *See* Official Gazette of June 22, 2004

required under 37 CFR 3.81(b) was not submitted petitioner's deposit account no. 14-1140 will be charged in the amount of $100.00 for the certificate of correction.

Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Patent No. 7,008,466	:	
Issued: March 7, 2006	:	
Application No. 10/487,596	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket Number: 608-419	:	

CORRECTED DECISION[1]

This is a decision on the petition, filed March 22, 2006, under 37 CFR 1.183, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[2]

The petition is **GRANTED**.

Petitioner states that the assignee is BP Exploration Operating Company Limited, and seeks to correct an error on the face of the patent. Petitioner does not indicate that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent however it will be so construed. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request is accompanied by a certificate of correction. Office assignment records reflect that BP Exploration Operating Company Limited is the assignee of record.

---

[1]This decision corrects a typographical error in the name of the assignee noted by the USPTO in the decision mailed July 25, 2006. The certificate of correction should list BP Exploration Operating Company Limited as the assignee.

[2] *See* Official Gazette of June 22, 2004

Although the fee required under 37 CFR 3.81(b) was not submitted petitioner's deposit account no. 14-1140 will be charged in the amount of $100.00 for the certificate of correction.

Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

2 9 NOV 2004

#6

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Anneliese M. Seifert
ECOLAB INC.
RESEARCH CENTER
840 Sibley Memorial Highway
Mendota Heights, MN 55118

In re Application of
KRESSE *et al*
U.S. Application No.: 10/487,605
PCT No.: PCT/EP02/09371
Int. Filing Date: 22 August 2002
Priority Date: 30 August 2001
Attorney Docket No.: 1898USWO
For: WIPING DEVICE FOR WIPING SURFACES TO BE CLEANED

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition to Revive Abandoned Application Under 37 C.F.R. §1.137(b)" filed on 02 August 2004 is hereby **GRANTED** as follows:

The basic national fee and petition fee of $1,330.00 have been paid. Applicants state that "[t]he entire delay in filing the payment of the Basic National Fee from the due date of February 29, 2004 until the filing of this petition was unintentional" has been interpreted as meeting the requirements of 37 CFR 1.137(b)(3). If this interpretation is incorrect, applicants should notify the Office. 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 filed 29 March 2004.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 June 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 August 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

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08 JUN 2007

Lerner, David, Lettenberg
Krumhold & Mentlik
600 South Avenue West
Westfield, NJ 07090

In re Application of BARNEY, et al. U.S. Application No. 10/487,611 PCT Filing Date: August 03, 2004 Attorney Docket No. HNC0055-USA For: BREATH-ENHANCED ULTRASONIC NEBULIZER AND DEDICATED UNIT DOSE AMPOULE	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed January 9, 2007, 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 application designating the United States of America (Application No. PCT/US02/27712, filed August 03, 2004.

The petition is **dismissed** as moot for the reasons stated below.

As set forth in MPEP 1893.03(c), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

In view of the dismissal of the instant petition as moot, the $1370 fee will not be charged to counsel Deposit Account.

Any questions concerning this decision on petition may be directed to Anthony Smith at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 3723.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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Marvin E Jacobs
Koppel Jacobs Patrick & Heybl
Suite 215
2151 Alesandro Drive
Ventura CA 93001

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Blom et al.	:	
Application No.: 10/487612	:	ON PETITION
Filing or 371(c) Date: 02/19/2004	:	
Attorney Docket Number:	:	
371-042- PCT/US Nat'l	:	

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 December 28, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed February 10, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on May 11, 2006. A Notice of Abandonment was mailed September 28, 2006.

Applicant files the instant petition and Amendment in response to the Office action. Accordingly, the petition is granted.

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.

This application is being referred to Technology Center Art Unit 3738 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

CC: RYAN W. MASSEY / JENNIFER M. WOODSIDE WOJTALA
HARNES, DICKEY & PIERCE, PLC.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

16 JUL 2004

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Richard H. Tushin
DYKEMA GOSSETT PLLC
Franklin Square, Third Floor West
1300 "I" Street, N.W.
Washington, DC 20005-3353

In re Application of	:	
Phillip WRIGHT, et al.	:	
Serial No.: 10/487,624	:	DECISION ON
PCT No.: PCT/GB02/03912	:	PETITION
Int. Filing Date: 23 August 2002	:	UNDER 37 CFR 1.181
Priority Date: 24 August 2001	:	
Att. Docket No.: 66455-239-7	:	
For: CONTAINER FOR FOOD PRODUCT	:	

This decision is in response to the "PETITION FOR WITHDRAWAL OF NOTIFICATION OF MISSING REQUIREMENTS" filed by facsimile on 08 July 2004, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notification of Missing Requirements issued by the Office on 30 June 2004 and acceptance of copies of the executed Declaration and of the cover letter accompanying the petition as being filed on 09 March 2004. No petition fee is required.

BACKGROUND

On 23 August 2002, applicants filed international application PCT/GB02/03912, which claimed priority of an earlier British application filed 24 August 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 March 2003. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 24 February 2004.

On 24 February 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 30 June 2004, the United States Designated/Elected Office (DO/EO/US) issued a

Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration of the inventors must be filed within one month from the date of mailing of the notice along with a $65.00 late surcharge.

In response to the Office notice of 30 June 2004, applicants filed the present petition requesting withdrawal of the Notification of Missing Requirements issued by the Office on 30 June 2004. A copy of the return postcard with the P.T.O. Mail-room date stamp of 09 March 2004 indicating that the declaration had been received by the Patent and Trademark Office and a copy of the declaration were also provided.

DISCUSSION

The evidence submitted by applicants is sufficient to establish that a declaration, a copy of which is attached to the present petition was filed on 09 March 2004. The declaration of the inventors complies with 37 CFR 1.497(a)-(b). Accordingly, the Notification of Missing Requirements of 30 June 2004 was mailed in error and is hereby VACATED.

DECISION

In view of the discussion mentioned above, the petition under 37 CFR 1.181 requesting withdrawal of the Notification of Missing Requirements and acceptance of copies of the executed Declaration and of the cover letter as being filed 09 March 2004 is GRANTED.

The application is being returned to the DO/EO/US for further processing including according this application a 35 U.S.C. 371 (c)(1), (2) and (4) date of **09 March 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/BM:hn

Tel: (703) 308-6508

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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APR 05 2007

OFFICE OF PETITIONS

In re Patent No. 7,053,800	:	
Application No. 10/487,637	:	
Filed: October 13, 2004	:	ON PETITION
Issued: May 30, 2006	:	
Attorney Docket No. W0583.70012 US00	:	

This is a decision on the request under 37 CFR 3.81(b)[1] filed January 19, 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 request is **GRANTED**.

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

The $130.00 request fee and the $100.00 certificate of correction fee will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OSTROLENK FABER GERB & SOFFEN, LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Henri Paradowshi :
Application No. 10/487,655 : ON PETITION
Filed: March 15, 2005 :
Attorney Docket No. P/4393-5

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 July 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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wk

Mailed: 8/19/05

In re application of	:	
Eric Maziers	:	DECISION ON
Serial No. 10/487,661	:	PETITION
Filed: September 17, 2004	:	
For: Injection Blow Molded Single Layer Metallocene Polyethylene Container	:	

This is a decision on the petition filed on May 10, 2005. The petition requests to restart the date for response to the Office Action mailed on January 7, 2005. The January 7, 2005 action was mailed to the incorrect address of record. Applicant became aware of Action after accessing the PAIR system on May 5, 2005.

DECISION

The Instant PETITION is accepted as a petition under 37 CFR 1.181(no fee).

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes

(1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and

(2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

Applicant has provided evidence that meets the criteria stated above.

The petition is **GRANTED.**

The office action of January 7, 2005 will be resent to the correspondence address of record (FINA Technology) and the time period for reply restarted.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

William D. Jackson
Locke Liddell & Sapp, LLP
2200 Ross Avenue, Suite 2200
Dallas, TX
75201-6776

10 AUG 2004

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

Daniel J. Schlue
Roetzel & Andress
222 S. Main Street
Akron, Ohio 44308

In re Application of :
JANA et al. :
Application No.: 10/487,662 :
PCT No.: PCT/US02/21060 :
Int. Filing Date: 03 July 2002 :
Priority Date: 03 July 2001 :
Attorney Docket No.: 089498-0410 :
For: METHODS FOR PRODUCING MICRO- AND NANO-SCALE DISPENSED-PHASE MORPHOLOGIES IN POLYMERIC SYSTEMS COMPRISING AT LEAST TWO . . .

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 23 February 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

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

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UNITED STATES DEPARTMENT OF COMMERCE
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Martin Vorbach	: DECISION ON REQUEST FOR
Patent Number	: 7577822	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Antonius Bader	: DECISION ON REQUEST FOR
Patent Number	: 7624618	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Docket No.: 070456-0015 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE
MAR 19 2007
PATENT & TRADEMARK OFFICE

In re Application of	:	Customer Number: 20277
Yoshiharu DOI	:	Confirmation Number: 2168
Application No.: 10/487,769 Patent No.: 7,110,795	:	Group Art Unit: 2687
Filed: February 26, 2004	:	Examiner: Trinh, Sonny

For: RADIO APPARATUS, AND ITS SIGNAL RECEPTION METHOD AND FILTER COEFFICIENT MEASUREMENT METHOD AND PROGRAM

please enter
ER
9/4/07

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.322

Certificate
MAR 21 2007
of Correction

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

Sir:

In reviewing the above-identified patent, a printing error was discovered therein requiring correction in order to conform the Official Record in the application.

The error noted is set forth on the two attached copies of form PTO-1050 Rev. 2-93 in the manner required by the Commissioner's Notice.

Specifically, on the title page of the Letters Patent, under section "(54)", **change** " RADIO APPARATUS, METHOD FOR RECEIVING ITS SIGNAL, METHOD FOR MEASURING ITS FILTER COEFFICIENT, AND PROGRAM FOR MEASURING ITS FILTER COEFFICIENT " **to** -- RADIO APPARATUS, AND ITS SIGNAL RECEPTION METHOD AND FILTER COEFFICIENT MEASUREMENT METHOD AND PROGRAM –. For your immediate reference

MAR 21 2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/04/07

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/487705** Patent No.: **7110795**

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: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

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SUITE 400
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :

BOHMER, Bernhard et al. :
Application No. 10/487,708 : DECISION ON PETITION
Filed: February 26, 2004 : TO WITHDRAW
Attorney Docket No. **449122068900** : 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: **BERNHARD BOHMER**
OLYMPISCHE STRE. 4
BERLIN, GERMANY 14052

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PHILIP G. MEYERS LAW OFFICE
1009 LONG PRAIRIE ROAD, SUITE 300
FLOWER MOUND TX 75022

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Stewart, William L.	:	
Application No. 10/487,717	:	ON PETITION
Filed: February 27, 2004	:	
Attorney Docket No. 30009-1008	:	

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed December 30, 2004, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states that the applicant's invention "...conserves electrical energy by facilitating more rapid detection of problems in an electrical grid... and by facilitating wheeling of power between power grids, presently limited by lack of sufficient real time information needed to efficiently distribute and allocate available power over a distribution system." The petition further states, "This real time information enables more efficient control and distribution of electrical power than is currently available, resulting in energy savings." These statements lack any specifics about HOW and HOW MUCH the invention materially contributes to item (B), above. Without specific details about how the invention functions, the above statements are inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources."

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

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

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

By FAX: (571) 273-8300

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2636 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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

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AUG 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,169,961	:	
Issued: January 30, 2007	:	
Application No. 10/487,728	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. 249075US0XPCT	:	

This is a decision on the petition filed April 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

It is noted that a petition fee of $400 was erroneously charged to counsel's deposit account. Since the requisite fee is $130, the difference of $270 is being refunded.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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CORPORATE PATENT COUNSEL
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
PO BOX 3001
BRIARCLIFF MANOR, NY 10510

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Nascetti et al.	:	
Application No. 10/487,735	:	DECISION ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. DE010244US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER MN 55082

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JAN 31 2006
OFFICE OF PETITIONS

In re Application of
Schiene-Fischer et al.
Application No. 10/487,750
International Filing Date: August 20, 2002
For: CATALYSIS OF THE CIS/TRANS-ISOMERISATION OF SECONDARY AMIDE PEPTIDE COMPOUNDS
Attorney Docket No: VOS0017/US
Pub. No.: US 2005/0043213 A1
Pub. Date: February 24, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221 (b), received on April 18, 2005, for the above-identified application.

The request is granted-in-part.

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

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request also includes mistakes that are not material errors by the Office, which will not be corrected by a corrected publication by the Office.

The first listed error will not be corrected as requested by applicant. Applicant asserts page 10, paragraph [02113], line 24 of the publication improperly contains "... or UVN is absorption ..." wherein it should be "...or UV/Nis absorption ...", page 28 of the specification as filed contains "UV/Vis" which will be printed in the publication.

The other two listed errors will be corrected as requested.

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

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

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

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

By facsimile: 571-273-8300

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

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

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AUG 08 2008

Paul Weaver
KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER MN 55082

In re Application of	:	
Schiene-Fischer et al	:	Decision on Petition
Serial No.: 10/487,750	:	
Filed : 29 September 2004	:	
Attorney Docket No. **VOS0017/US**	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 5 May 2008 requesting reconsideration of the restriction requirement dated 28 March 2007.

BACKGROUND

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

On 11 June 2007, the examiner found unity of invention lacking among the two Groups and required an election of species of compound recited in claim 32. The examiner identified claims 1-34 as generic and provided the following guidance:

> Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.
>
> Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

On 11 July 2007, applicants elected Group I with traverse. Applicant also elected compound 37B10. The statement applicants made about the requirement to elect a compound was "It is respectfully submitted that all compounds should be examined together."

On 27 June 2007, the examiner considered the traversal and made the restriction requirement final, there being no special technical feature which linked the inventions. Claims 1-5, 9, 11, 12, 18, 20, 23 and 25-34 were rejected under 35 USC 112, 2nd paragraph. Claims 1-5, 9, 11, 23, 25, and 29-31 were rejected under 35 USC 102(b) as being anticipated by Ubodong. Claims 23 was rejected under 35 USC 102(b) as being anticipated by Gibson. Claims 1-5, 9, 12, 18, 20, 25, and 29-31 were rejected under 35 USC 102(b) as being anticipated by Philippe. Claims 1-5 and 25-31 were rejected under 35 USC 102(b) as being anticipated by Kragol. Claims 1-5 and 25-34 were rejected under 35 USC 102(b) as being anticipated by Otvos. Claims 1-5. 25. 28. 29-31 and 34 were rejected under 35 USC 102(b) as being anticipated by Rich. The elected species of 37/B10 was found to be novel and unobvious.

On 27 December 2007, applicants amended generic claim 9, for example, to require that the peptide is a L-amino acid or mimetic thereof. Applicants also filed a response to the Office action.

On 6 March 2008, the examiner issued an Ex parte Quayle allowance. Claim 38, found to be novel and unobvious, was objected to for being an improper dependent claim. The species of 37 /B10 is not encompassed by the generic claim 9 or 23. Claims 9, 11-14, 18-21 and 25-38 were withdrawn from consideration.

On 12 May 2008, applicants filed a response to the Office action. Included in the response were two pages encompassing a petition of the restriction requirement.

DISCUSSION

The file history and petition have been considered carefully.

Before turning to the merits of the petition, applicant is reminded that petitions should be filed as a separate paper from any response to an Office action. It is also noted that the claims and remarks submitted on 12 May 2008 are identified as being for application serial number (10/431, 715) while the coversheet has identified serial number 10/487,750. The papers have been entered into 10/487,750.

Turning now to the merits of the petition, 37 CFR 1.144 and MPEP 818.03(c) provide guidance on petitioning a restriction requirement.

37 CFR 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on
> the remainder of the action, may petition the Director to review the requirement. Petition may be

deferred until after final action on or allowance of claims to the invention elected, but must be filed
not later than appeal. A petition will not be considered if reconsideration of the requirement was not
requested (see § 1.181).

Because applicant, upon election, did not distinctly and specifically point out supposed errors in the restriction requirement, the election may have been treated as an election without traverse and not applicable for petition.

In the first Office action on the merits, the examiner considered the elected species and claims which were generic to the elected species. The generic claims were found to be anticipated by several different references under 35 USC 102(b). As such, any technical feature linking the elected and non-elected species did not make a contribution over the prior art. The lack of unity requirement to a single species was properly maintained.

The amendment filed 27 December 2007, altered the scope of the generic claims by adding the limitations "L-amino acid or mimetic thereof." As discussed by the examiner, the elected species 37/B10 is not a L-amino acid or mimetic thereof. For this reason, the generic claims no longer embraced the elected species. Moreover, counter to 37 CFR 1.75(C) dependent claim 38 no longer properly depended upon the generic claims. The examiner was correct to indicate that claim 38, which was otherwise in condition for allowance, would be allowable if written in independent form.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 on 12 May 2008 is **DENIED**.

Applicants remain under obligation to respond to the Office action mailed 6 March 2008 within the time period set therein or as extendable under 1.136(a).

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

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

Remy Yucel
Director, Technology Center 1600

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KAGAN BINDER, PLLC
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Mail Date: 04/21/2010

Applicant	: Cordelia Schiene-Fischer	: DECISION ON REQUEST FOR
Patent Number	: 7589065	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,750	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1099** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

#6

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04 OCT 2006

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of	:	
KIKUYAMA, Hirohisa et al.	:	
Application No.: 10/487,770	:	DECISION ON
PCT No.: PCT/JP02/08564	:	
Int. Filing Date: 26 August 2002	:	PETITION
Priority Date: 24 August 2001	:	
Attorney Docket No.: 8075-1077	:	UNDER 37 CFR 1.137(b)
For: SURFACE TREATING ... PLURALITY:		
OF COMPONENTS	:	

Applicants' "Petition to Revive Under 37 CFR §1.137(b)," filed in the above-captioned application on 08 September 2006 is **GRANTED**.

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

Applicant has supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The fee for late furnishing of the search fee, examination fee or oath or declaration has been paid.

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 08 September 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

09 DEC 2004

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#6

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UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
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McCracken & Frank LLP
200 W. Adams Street
Suite 2150
Chicago, IL 60606

In re Application of	:	
Rossow et al.	:	
Application No.: 10/487,786	:	
PCT No.: PCT/FR04/00122	:	
Int. Filing Date: 20 January 2004	:	DECISION
Priority Date: 12 August 2003	:	
Attorney Docket No.: 28944/40092	:	
For: Stable, Concentrated and Dilute, Oil-In-Water	:	
Emulsions, Their Process Of Preparation, And	:	
Formulation Process Employing These Emulsions	:	

This is a decision on the "Petition Under 37 CFR § 1.181" filed on 15 November 2004.

BACKGROUND

Based on counsel's representations, this international application was filed on 20 January 2004 and claimed a priority date of 12 August 2003. The International Bureau has not yet transmitted a copy of the published international application to the USPTO. Based on the claimed priority date mentioned above, the thirty month period for payment of the basic national fee in the United States will expire as of midnight on 12 February 2006. On 26 February 2004, applicants filed *inter alia* the basic national fee.

On 26 July 2004, a Notice Of Insufficient Basic National Fee Required And/Or Missing Copy Of International Application... (Form PCT/DO/EO/912) was mailed to applicants, requiring the submission of a "copy of International Application, which includes a copy of the Request Form, submitted to the International Bureau. Prior to publication by the International Bureau, the applicant is responsible for providing copies of IB papers to USPTO."

DISCUSSION

The instant petition states in part that "Applicants, through their undersigned attorney, petition for issuance of a 371 filing date of April 6, 2004, and a Notice of Acceptance for the present application." In support, counsel refers to evidence that a check and an executed declaration of the inventors were allegedly filed on 06 April 2004, and complains that "Applicants undersigned attorney never received the original mailing of the Notification of Missing Requirements that issued."

Review of the record reveals that the declaration of the inventors filed on 06 April 2004 is present in the application file, and the accompanying check for $130.00 was credited to the application. Further review of the application file reveals that no Notification of Missing Requirements (Form PCT/DO/EO/905) has been promulgated in this case. However, counsel's attention is respectfully drawn to the Form PCT/DO/EO/912 mailed on 26 July 2004, which reflects the fact that no copy of the international application as filed has yet been received in this national stage application, as required by 35 U.S.C. 371(c)(2). This requirement may be satisfied either by the publication of the international application by the International Bureau of WIPO, or else by the direct submission of a copy of the international application as filed by applicants and to the USPTO. Since applicants have not yet completed all of the requirements of 35 U.S.C. 371(c)(1), (2) and (4), it would not be appropriate to grant a Notice of Acceptance (Form PCT/DO/EO/903) nor a filing receipt at this time.

DECISION

The petition is **DISMISSED**, without prejudice.

Applicants have **thirty (30) months** from the priority date of this international application to file a proper response. Failure to timely reply will result in **ABANDONMENT**.

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

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

Mail Date: 04/20/2010

Applicant	: Veronique Rossow	: DECISION ON REQUEST FOR
Patent Number	: 7645804	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **815** 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.

19 JUL 2004

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Patrick J.G. Stiennon
Stiennon & Stiennon
612 W. Main St., Suite 201
P.O. Box 1667
Madison, WI 53701-1667

In re Application of HIETANEN	:	
U.S. Application No.: 10/487,788	:	
PCT Application No.: PCT/FI02/00687	:	
Int. Filing Date: 22 August 2002	:	DECISION
Priority Date Claimed: 22 August 2001	:	
Attorney Docket No.: METSO-17	:	
For: APPARATUS FOR LEADING A WEB THREADING TAIL OVER AN EMPTY SPACE	:	

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 February 2004.

BACKGROUND

On 22 August 2002, applicant filed international application PCT/FI02/00687, which claimed priority of an earlier Finland application filed 22 August 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 22 February 2004.

International application PCT/FI02/00687 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 February 2004, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

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

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JAN 26 2007

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
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2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of :
HAYS :
Application No. 10/487,794 : DECISION ON PETITION
Filed: August 4, 2004 : TO WITHDRAW
Attorney Docket No. THOM-0033 : 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 28, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "transfer of responsibility", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JEFFREY C. PEPE**
DARBY & DARBY PC
1191 SECOND AVENUE, SUITE 200
SEATTLE, WA 98101

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JEAN ROBERTSON
SECRETARY, HTG
764 PLANTATION BLVD
GALLATIN, TN 370665400

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AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
James C. Hayes	:	
Application No.: 10/487794	:	DECISION ON
Filing or 371(c) Date: 08/04/2004	:	PETITION
Title of Invention:	:	
OPHTALMIC TISSUE BARRIER	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2008, to revive the above-identified application.

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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 6, 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 October 7, 2007. A Notice of Abandonment was mailed February 25, 2008.

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 petition lacks item(s) (1).

Analysis and conclusion

As to item (1), a complete and proper reply[1] to the final Office action is required. A copy of the Office action, mailed July 6, 2007, is enclosed.

The application file does not indicate a proper change of address has been filed in this case, although the address given on the petition differs from the address of record. It is noted that in the last line of the petition Applicant requests this Office change the responder information; however, Applicant is advised that each request must be filed on a separate paper. 37 CFR 1.4(c) states that "since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." Applicant is also advised that a change in correspondence address does not withdraw a power of attorney.

Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that the Inventor's Assistance Center is available, at 1-800-786-9199, for assistance in prosecuting the patent 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

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[1] The required 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.

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/
Derek L. Woods
Attorney
Office of Petitions

Enclosure: final Office action, mailed July 6, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/487,794	08/04/2004	James C. Hays	THOM-0033	4008

23377 7590 07/06/2007
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

EXAMINER
GANESAN, SUBA

ART UNIT	PAPER NUMBER
3738	

MAIL DATE	DELIVERY MODE
07/06/2007	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)
	10/487,794	HAYS, JAMES C.
	Examiner	Art Unit
	Suba Ganesan	3738

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on *27 March 2007*.

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

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

Disposition of Claims

4)☒ Claim(s) *1,4,7-15 and 17-23* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,7-15,17-23* is/are rejected.

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

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

Application Papers

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

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

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/27/2007 have been fully considered but they are not persuasive. Applicant argues that the Smith reference does not disclose lateral flanges extending along a full length of the elongate body. Examiner is relying upon the broadest reasonable interpretation of the specification of Smith. Furthermore, Smith claims a scleral implant with a flange extending from four sides of the base of the device (claim 5). Therefore it can be reasonably assumed that Smith intends to disclose a flange surrounding the implant body, regardless of the clarity of the patent drawings. Applicant's arguments with respect to claim 13 are not persuasive because excising a block of sclera is done using incisions (col. 4 lines 16-19). Smith further discloses the implant is useful for treating glaucoma (see abstract), an ophthalmic condition.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims **1**,**4**, **8**, **10**, and **12-14** are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. Pat. No. 4,946,436).

Smith discloses a hexahedral scleral implant (**11**) comprising a biocompatible elongate body and thin raised flanges (**19**). Smith discloses the use of this implant for the prevention of tissue in-growth (col. 5. line 26). The cross section of the flanged

embodiment (see, for example, fig. 3) is T-shaped, with the head of the T providing the flanges. Implant (**11**) has lateral flanges that extend the full length of the implant (see col. 4 lines 63-65). With respect to claim **8**, Smith discloses flanges (**19**) with a transverse width approximately equal to the height of the implant body (**11**) (see, for example, fig. 3). Smith additionally discloses the flange is disposed laterally on the elongate body, col. 5, line 5. The use of "extend substantially a full length" is terminology of relative degree, which has no basis of comparison. For this reason, it is considered broad and relatively unlimited and Smith can be interpreted to have a "substantial full length flange".

With respect to claim **10**, Smith discloses the flange (**19**) having a thickness of 1/8 mm, which is on the order of .1 mm (col. 5, line 6). With respect to claim **12**, the depth of implant (**11**) is discloses as ½ mm (col. 4, line 15-16).

With respect to claims **13-14**, Smith further discloses methods for implanting scleral implant (**11**) comprising making an incision forming a pocket in the sclera; and placing implant (**11**) in the pocket created in the sclera (col. 4 lines 32-33). Smith further discloses incisions in the sclera to accommodate the flanges (**19**) of implant (**11**) (col. 4, lines 41-45).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims **7**, **9**, **11**, **18**, **20-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. No. 4,946,436) in view of Schanzlin et al. (Pub No.: US 2004/0073303 A1).

4. Smith is explained supra. However, Smith lacks a flange in the center portion only of the elongate body as well as a width of .8mm and length of 2.75mm. Schanzlin teaches an eye implant which prevents tissue in-growth [para. 0095] with a longitudinally extending stem portion and rounded flat shaped lateral flanges in the center portion only of the elongate body (see for example, fig. 7A). Schanzlin et al. teaches flanges with a thickness "about equal to" the transverse width of the stem portion (see for example, fig. 7A and 7B). Schanzlin et al. further teaches typical eye insert widths between .2 mm and 2.0 mm, which is "of the order of" .8 mm [para. 0078] and typical eye insert lengths rarely exceeding 3.0 mm, with a preferable length equal to 2.5 mm, which is "of the order of" 2.75 mm [para. 0078].

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine a flange in the center portion only of the elongate body as well as a width of .8mm and length of 2.75mm as taught by Schanzlin with the implant of Smith for the purpose of creating an implant appropriately sized and shaped for implantation within the eye (see para 10 of Schanzlin), the motivation to combine being: geometrical optimization and ease of manufacturing of the implant with dimensions and shapes known in the art.

5. Claims **15** and **17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. No. 4,946,436) in view of Schachar (U.S. Pat. No. 6007578).

6. Smith is explained supra. However, Smith does not disclose an implant made of titanium or an implant for the treatment of presbyopia. Schachar teaches the use of a titanium implant for the treatment of glaucoma and presbyopia (see abstract and col. 7 lines 29-38). Therefore it would have been obvious to one of ordinary skill in the art to use titanium material and treat of presbyopia as taught by Schachar with the implant of Smith for the purpose of creating a rigid material and treating a different eye condition with the same implant.

7. Claim **19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Pat. No. 4,946,436) in view of Schanzlin et al. (Pub No.: US 2004/0073303 A1), further in view of Schachar (U.S. Pat. No. 6007578).

8. Smith in view of Schanzlin is explained supra. However, this combination lacks titanium as an implant material. Schachar teaches the use of a titanium implant (see col. 7 lines 29-38). Therefore it would have been obvious to one of ordinary skill in the art to use titanium material as taught by Schachar with the implant of Smith for the purpose of creating a rigid implant material.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suba Ganesan whose telephone number is 571-272-3243. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. 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.

/SDG/ 6/22/2007

Brian Pellegrino

BRIAN E. PELLEGRINO
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 10/487,794	Applicant(s)/Patent Under Reexamination HAYS, JAMES C.	
	Examiner Suba Ganesan	Art Unit 3738	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,007,578	12-1999	Schachar, Ronald A.	623/11.11
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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OFFICE OF PETITIONS

In re Application of	:	
Azzedine Bousseksou et al.	:	
Application No. 10/487,796	:	NOTICE
Filed: July 12, 2004	:	
Attorney Docket No. 1053-04	:	

This is a notice regarding your request filed October 12, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Cantor Colburn, LLP
55 Griffin Road South
Bloomfield, CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Ian Austin Harrison	:	
Application No. 10/487,799	:	DECISION GRANTING PETITION
Filed: September 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DEH-0015	:	

This is a decision on the petition, filed November 23, 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 Request for Continued Examination (RCE) and submission under 37 CFR 1.114. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 12, 2005 ***in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3223.

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 3723 for processing of the RCE under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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 Konenkamp et al. :
Application No. 10/487,802 :
Filing Date: February 26, 2004 :
Attorney Docket No. 21141/0210504-US0 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2008, to revive the above-identified application.

The petition is **dismissed**.

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

The Office mailed a Notice of Non-Compliant Amendment on May 24, 2006. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

The Office did not receive a reply to the May 24, 2006 Notice or a request for an extension of time. As a result, the application became abandoned as of Tuesday, June 27, 2006. A Notice of Abandonment was mailed February 8, 2007.

The instant petition requests revival of the application.

Petitioner has submitted a statement that the delay was unintentional. Normally, a statement is sufficient to satisfy 37 CFR 1.137(b)(3). However, 37 CFR 1.137(b)(3) allows the Office to request further information regarding the "unintentional" delay. In this case, the Office is requesting additional information for three reasons,

(1) The delay between the date of abandonment and the filing of the instant petition was 826 delays;
(2) The delay between the date a Notice of Abandonment was mailed and the date the instant petition was filed was 600 days; and
(3) The petition is signed by Attorney Erik Swanson who was not an attorney of record at the time the application became abandoned and, as a result, may not have firsthand or direct knowledge of the facts and circumstances of the delay.

The Office requests petitioner supply sufficient information to support the conclusion the entire delay was unintentional.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/487,805	02/26/2004	Tord Inghardt	ASZD-P01-735	1545

28120 7590 02/17/2006

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ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

EXAMINER
CHUNG, SUSANNAH LEE

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 02/17/2006

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

FISH & NEAVE GROUP
ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110-2624

Date: February 10, 2006
Application No. 10/487,805
Filed: February 26, 2004
Subject: **Mandelic Acid Derivatives**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed February 03, 2006 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a name of an inventor was omitted through error without any deceptive intention on the part of this inventor. Accordingly, this application has been changed by the **deletion of Anders Johansson and Arne Svensson.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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OFFICE OF PETITIONS

Ole Johan Aulie
PO Box 188
Lysaker N-132-5 NO NORWAY

In re Application of
MARTINEZ et al.
Application No.: 10/487,811
Attorney Docket No.: 0570-1007

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 9, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned at midnight on November 9, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 9, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 1754.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3286.

Cynthia M. Kratz
Attorney Advisor

08 JUN 2005

#5

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K. David Crocket
CROCKETT & CROCKETT
24012 Calle de la Plata, Suite 400
Laguna Hills, CA 92653

In re Application of
HARTWICH, Gerhard *et al*
U.S. Application No.: 10/487,815
PCT No.: PCT/DE02/01269
Int. Filing Date: 06 April 2002
Priority Date: 25 August 2001
Attorney Docket No.: 212/557US
For: DISPLACEMENT ASSAY FOR THE DETECTION OF LIGATE-LIGAND ASSOCIATION EVENTS

DECISION ON PETITION FOR REVIVAL 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 on 29 April 2005 is **DISMISSED** as **MOOT**.

On 25 February 2004, applicants entered the national stage of PCT/DE02/01269 under 35 U.S.C. 371. On 25 June 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/903) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required.

However, a review of the underlying international application shows that a declaration of inventorship under PCT Rule 4.17(iv) was filed with the PCT Request on 06 April 2002. This declaration is signed by all inventors and complies with 37 CFR 1.497(a) and (b). Accordingly, the Form PCT/DO/EO/905 mailed 25 June 2004 indicating that a declaration and surcharge are required in the above-captioned application is erroneous and hereby **VACATED**.

The fees paid by applicant on 29 April 2005, *i.e.*, petition to revive fee of $750.00 (Fee Code 2453), surcharge fee of $65.00 (Fee Code 2617), processing fee of $130.00 (Fee Code 1618) and an undetermined claim fee of $605.00 (Fee Code 1206), have been refunded.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 06 April 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 February 2004.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

22 SEP 2005

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K. David Crockett
Crockett & Crockett
24012 Calle de la Plata
Suite 400
Laguna Hills, CA 92653

In re Application of	:	
Hartwich et al.	:	
Application No.: 10/487,816	:	DECISION
PCT No.: PCT/DE02/03122	:	
Int. Filing Date: 26 August 2002	:	ON
Priority Date: 25 August 2001	:	
Attorney Docket No.: 212/558US	:	PETITION
For: Displacement Assay For The Detection Of Nucleic Acid Oligomer Hybridization Events	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed 08 September 2005.

BACKGROUND

This international application was filed on 26 August 2002, claimed an earlier priority date of 25 August 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 March 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 25 February 2004. Applicants filed *inter alia* the basic national fee on 25 February 2004.

On 23 July 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b), as well as a surcharge under 37 CFR 1.492(e). This international application became abandoned with respect to the national stage in the U.S. for failure to timely reply to the Notification of Missing Requirements.

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" was a response to the Notification of Missing Requirements - i.e., an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b), as well as a surcharge under 37 CFR 1.492(e). The instant petition is accompanied by an executed declaration of the inventors which is acceptable for purposes of 37 CFR 1.497(a) and (b), and the surcharge under 37 CFR 1.492(e) was paid on 29 April 2005. It is noted that counsel states that a petition and "all related documents" were filed on 29 April 2005, but counsel has not

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provided evidence (such as a stamped return postcard receipt or "Express Mail" evidence including a completed "Express Mail" mailing label) establishing that an acceptable declaration was filed on 29 April 2005. Accordingly, the date of receipt of the declaration (and therefore the date that 35 U.S.C. 371(c)(4) was satisfied) is 08 September 2005.

Regarding requirement (2), the petition fee was paid on 29 April 2005.

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

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

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **08 September 2005**.

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

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Paper No. None

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/487,822	:	DECISION ON PETITION
Filing Date: February 27, 2004	:	UNDER 37 C.F.R. §1.78(a)(3)
Attorney Docket No.: AP72US	:	
Title: IMAGE RECORDAL AND	:	
GENERATION APPARATUS	:	

This is a decision on the petition under 37 C.F.R § 1.78(a)(3) filed February 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of nonprovisional application number 09/942,601, filed August 31, 2001, which issued as U.S. Patent number 6,906,778 on August 31, 2001 and 09/436,750 , filed November 9, 1999, which issued as U.S. Patent number 6,539,180 on March 25, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

> the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed non-provisional 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 non-provisional 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 non-provisional applications, accompanies this decision on petition. Technology Center Art Unit 2853 will be notified of this decision, so that appropriate action can be taken on the amendment filed with this petition, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications.

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

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

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In re Application of KIA SILVERBROOK Serial No.: 10/500,013 PCT App. No.: PCT/AU02/01122 Int'l Filing Date: 21 August 2002 Priority Date: 31 August 2001 Attorney Docket No.: MJ41US For: RESIDUE REMOVAL FROM NOZZLE GUARD FRO INK JET PRINTHEAD	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $1080 was provided. The required petition fee of $1330 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **12 August 2004.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

27 JAN 2005

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In re Application of KIA SILVERBROOK Serial No.: **10/487,823** PCT App. No.: PCT/AU02/01122 Int'l Filing Date: 21 August 2002 Priority Date: 31 August 2001 Attorney Docket No.: MJ41US For: RESIDUE REMOVAL FROM NOZZLE GUARD FRO INK JET PRINTHEAD	CORRECTION TO DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a correction to the 19 November 2004 decision on applicant's petition to revive under 37 CFR 1.137(b) filed 12 August 2004 in the above-captioned application. The U.S. Serial number in the decision's caption contained a typographical error and is hereby corrected to **10/487,823**.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

3 0 NOV 2004

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James C. Wray
1493 Chain Bridge Road
Suite 300
McLean, VA 22101

In re Application of VEGVARY, Alfred Application No.: 10/487,832 PCT No.: PCT/AU02/01104 Int. Filing Date: 15 August 2002 Priority Date: 29 August 2001 Attorney Docket No.: WRAY-AU For: WHEEL LOCK APPARATUS	: : : : : : :	DECISION VACATING NOTIFICATION OF MISSING REQUIREMENTS

This is a response to applicant's "Letter" filed 16 September 2004, which has been treated as a request to vacate the Notification of Missing Requirements (PCT/DO/EO/905) mailed 14 September 2004 in view of the filing of a declaration on 15 March 2004.

On 15 August 2002, applicant filed international application PCT/AU02/01104 which claimed a priority date of 29 August 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, 01 March 2004.

On 27 February 2004, 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, *inter alia*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 14 September 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 16 September 2004, applicant filed "Letter" which was accompanied by a copy of the declaration filed on 15 March 2004 and a postcard receipt evidencing its receipt in the United States Patent and Trademark Office on 15 March 2004 and requests, in effect, that the copy of the declaration be accepted as a true copy of the declaration filed 15 March 2004.

Applicant has provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicant, serial number, and filing date. The receipt itemizes, among other things, a declaration. The receipt is stamped "OIPE MAR. 15, 2004" across its face is sufficient to indicate that the declaration was in fact received in the Office on 15 March 2004. Therefore, applicant's request to vacate the Notification of Missing Requirements is **GRANTED**.

In view of the declaration filed 15 March 2004, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 14 September 2004 is hereby **VACATED**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **15 March 2004**.

Anthony Smith

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

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of	:	
NAKADAI, KAZUHIRO et al.	:	
Application No.: 10/487832	:	DECISION ON
Filing or 371(c) Date: March 15, 2004	:	PETITION
Attorney Docket Number: **WRAY-AU**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed October 23, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed June 25, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 164.

for Kendrick Spruill
Application Assistance Unit
Office of Data Management

28 APR 2005

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Morgan, Lewis & Bockius
3300 Hillview Avenue
Palo Alto, California 94304

In re Application of	: DECISION ON
Defrees et al	:
Application No.: 10/487,841	:
PCT No.: PCT/US02/27935	:
Int. Filing Date: 29 August 2002	: PETITION UNDER
Priority Date: 29 August 2001	:
Attorney's Docket No.:040853-01-5035US	:
For: NOVEL SYNTHETIC GANGLIOSIDE	:
DERIVATIVE AND COMPOSITIONS THEREOF	: 37 CFR 1.181

This decision is in response to the "RESPONSE TO COMMUNICATION FROM THE OFFICE OF PCT LEGAL ADMNISTRATION DATED NOVEMBER 17, 2004," filed on 14 January 2005, which is being treated as a petition under 37 CFR 1.181, stating that the an executed declaration and the statement under 37 CFR 3.73(b) was received by the Office on 01 October 2004.

BACKGROUND

On 17 February 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. Applicant, 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 at such time.

On 27 July 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 months from the date of mailing of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later that the appropriate 30 months from the priority date (37 CFR 1.492(e)).

On 07 July 2004, applicants filed a "Revocation and Power of Attorney," indicating to send all correspondence to Morgan, Lewis & Bockius LLP.

In a communication by this Office dated 17 November 2004 indicated that a review of application 10/487,841 did not show documentary evidence under 37 CFR § 3.73(b) for the revocation and new Power of Attorney to be effective.

On 14 January 2005 applicants submitted this petition indicating that an executed declaration and the statement under 37 CFR 3.73(b) was received by the Office on 01 October 2004 as evidence by the USPTO's stamped postcard.

37 CFR 1.181:

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Executed Declaration
(2) Statement Under 37 CFR 3.73(b)
(3) Power of Attorney

The postcard lists the above items and bears a USPTO date of stamp as 01 October 2004.

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 a Declaration was deposited with the U.S. Patent and Trademark Office on 01 October 2004.

Accordingly, the date of receipt for the Declaration and Statement Under 37 CFR 3.37(b) is 01 October 2004.

REVOCATION OF POWER ATTORNEY:

A proper statement under 37 CFR 3.37(b) was submitted to the Office on 01 October 2004. Therefore, applicants' "Revocation and Power of Attorney" filed 07 July 2004 is proper. Applicants now appoint Morgan, Lewis & Bockius as the new attorneys for them to receive future correspondence from this Office.

Accordingly, all future correspondence will be mailed to Morgan, Lewis & Bockius LLP.

A copy this acceptance of the "Revocation and Power of Attorney" will be mailed to Townsend and Townsend and Crew LLP.

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 **01 October 2004**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 373-1810

CC: Jeffry S. Mann, Esq.
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Rhodes et al.	:	DECISION ON APPLICATION
Application No. 10/487,852	:	FOR
Filed: September 28, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1282-P02662US1	:	

This is in response to the "STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT: BASIS(ES) UNDER 37 CFR §1.702 FOR THE ADJUSTMENT," filed July 30, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred thirty-two (632) days to six hundred eighty-six (686) days.

The application for patent term adjustment at the time of mailing of the notice of allowance 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 six hundred eighty-six **(686)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 30, 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 632 days. On July 30, 2008, applicants timely submitted the instant application for patent term adjustment[1].

[1] PALM records indicate that the Issue Fee payment was also received on July 30, 2008.

Applicants assert that 54 days should be added to the patent term adjustment for a first Office action mailed October 15, 2007.

A review of the record reveals that on October 15, 2007, an Office action vacating the August 22, 2007 Office action was mailed. In this instance, the October 15, 2007 date will be used in calculating the period of adjustment under § 1.702(a)(1). Thus, this period of adjustment is corrected from 632 days to 686 days, counting the number of days beginning on November 29, 2005 and ending on October 15, 2007.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is six hundred eighty-six (686) days.

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

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent 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
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Saturday
Date: 8/30/2008

PALM INTRANET

Time: 16:03:36

PTA Calculations for Application: 10/487852			
Application Filing Date:	09/28/2004	PTO Delay (PTO):	632
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	686
PTO Delay Adjustment:	54		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
39	08/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	686		
38	08/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		632	
30	04/30/2008	MAIL NOTICE OF ALLOWANCE			
29	04/28/2008	ISSUE REVISION COMPLETED			
28	04/28/2008	DOCUMENT VERIFICATION			
27	04/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	04/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
25	04/28/2008	EXAMINER'S AMENDMENT COMMUNICATION			
24	04/28/2008	NOTICE OF ALLOWABILITY			
23	02/22/2008	DATE FORWARDED TO EXAMINER			
22	01/15/2008	RESPONSE AFTER NON-FINAL ACTION			
21	10/15/2007	MAIL NOTICE OF WITHDRAWN ACTION			
20	10/15/2007	MAIL NON-FINAL REJECTION			
19	10/12/2007	NON-FINAL REJECTION			
18	10/12/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
17	08/22/2007	MAIL NON-FINAL REJECTION	632		-1
16	08/20/2007	NON-FINAL REJECTION			
15	07/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	07/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	07/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
12	07/14/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	07/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	07/05/2005	REFERENCE CAPTURE ON IDS			

9.7	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/15/2004	CLEARED BY OIPE CSR			
7	09/28/2004	371 COMPLETION DATE			
6	11/04/2004	APPLICATION DISPATCHED FROM OIPE			
5	11/04/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	09/28/2004	ADDITIONAL APPLICATION FILING FEES			
3	09/28/2004	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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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-27-07 **Paper No.:** _____

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No. 7188727 B2 (10/487855

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**.

Should Fig. 3 be entered?

Please reply A/S/A/P

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

3728

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 15, 2007

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No. 10/487863 patent no. 7250511

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1624

Art Unit

PAGE 1/1 * RCVD AT 5/25/2009 6:40:58 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/31 * DNIS:2709942 * CSID: * DURATION (mm-ss):00-56

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 15, 2007

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No. 10/487863 patent no. 7250511

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1624

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 26 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,528,141	:	
Bavetsias, et al.	:	DECISION ON REQUEST FOR
Issue Date: May 5, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/487,874	:	TERM ADJUSTMENT and
Filed: August 23, 2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.	:	CERTIFICATE OF CORRECTION
604-714	:	

This is a decision on the "PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT" filed May 19, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the Patent Term Adjustment for the above-identified patent be set at seventy-six (76) days.

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

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

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 **seventy-six (76) days**.

On May 5, 2009, the above-identified application matured into U.S. Patent No. 7,528,141. The patent issued with a revised Patent Term Adjustment of thirty-four (34) days. On May 19, 2009, patentees filed a timely request for reconsideration within two (2) months of the date the patent issued. See 37 CFR

1.705(d). Patentees assert that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in 37 CFR 1.704(c)(10). Specifically, patentees dispute the reduction of forty-two (42) days based on the filing of a "Request for Correction of Title in Notice of Allowance", filed March 25, 2009. Patentees state that the request to correct the title of the invention claimed was first filed May 23, 2005, and the Office took no action thereon. Patentees maintain that there is no failure to engage in reasonable efforts to conclude the prosecution of the application by filing a duplicate of the request to correct the title of the invention after the mailing of the Notice of Allowance when the request was first filed on March 23, 2005. Accordingly, patentees maintain that the 42 day reduction to the patent term for the filing of the "Request for Correction of Title in Notice of Allowance" was not warranted and should be removed.

The record confirms that patentees filed "Request for Correction of Title in Notice of Allowance"on March 25, 2009, after the mailing of the Notice of Allowance. Nonetheless, under the circumstances specific to this case, the filing of the "Request for Correction of Title in Notice of Allowance" should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The record reveals no response was mailed to the "Request for Correction of Title in Notice of Allowance" filed March 23, 2005, thus prompting patentees to filed another request to correct the title of invention on March 25, 2009. Accordingly, the reduction of forty-two (42) days is not warranted and will be removed.

In view thereof, the patent term adjustment indicated on the patent should be seventy-six (76) days.

The fee for the instant petition is $200.00, not $130.00. Deposit account 14-1140 will be charged an additional $70.00 accordingly. The petition fee is required pursuant to 37 CFR 1.18(e) and will not be refunded.

This matter is being referred 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 **seventy-six (76) days**.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,528,141 B2

DATED : May 5, 2009

INVENTOR(S) : Bavetsias 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 (34) days

Delete the phrase "by 34 days" and insert – by 76 days--

OIPE IAP17
JUL 30 2008
PATENT & TRADEMARK OFFICE

10/487876

Cof C/#

Attorney Docket No. 601-074

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	
Gotti et al.	
Patent No.:	7,195,108 B2
Issued:	March 27, 2007
For:	CALIPER DISC BRAKE PROTECTIVE DEVICE AND CALIPER DISC BRAKE

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 35 U.S.C. 255 AND 37 CFR 1.323

ATTN: Certificate of Correction Branch
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

Patentees respectfully request that Certificate of Correction be issued including the Assignee "Freni Brembo S.P.A, Bergamo, Italy" be added to Patent No. US 7,195,108 B2. This assignee name was inadvertently not included on the Issue Fee payment form.

As required by 37 CFR 1.323 Patentees hereby assert that this omission occurred without deceptive intent, is clerical in nature and of minor character, and the the issuing of a Certificate of Correction by the U.S. Patent Office should be granted as it would not include adding new matter nor would such change require a reexamination.

07/31/2008 CNGUYEN2 00000033 192825 7195108

01 FC:1811 100.00 DA
02 FC:1464 130.00 DA

As required by MPEP 1481.01, Patentees hereby assert that the assignment from the inventors Antonio Gotti, Giovanni Fattori, Lorenzo Nessi, was submitted and recorded under 37 CFR 3.11 prior to the issue of this patent. The assignment was recorded on February 23, 2004 on reel/frame 015817/0267.

The fee for the Certificate of Correction as required under 37 CFR 1.20(a) of $100.00 should be taken out of Deposit Account 19-2825, Order No.: 601-074. Also the processing fee as required under 37 CFR 1.17(i) of $130.00 should also be taken out of Deposit Account No.: 19-2825, Order No.: 601-074.

Any additional fees required in connection with this application may be charged to Deposit Account No. 19-2825, Order No.: 601-064.

Respectfully submitted,

SOFER & HAROUN, L.L.P.

By _____

Joseph Sofer
Reg. No 34,438
317 Madison Avenue
Suite 910
New York, NY 10017
(212) 697-2800
Customer No.: 39600

Dated: July 28, 2008

OIPE HP17
JUL 30 2008
PATENT & TRADEMARK OFFICE

PATENT

Docket No.: 601-074

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Gotti et al.
Patent No. : 7,195,108
Issued : March 27, 2007
For : CALIPER DISC BRAKE PROTECTIVE DEVICE AND CALIPER DISC BRAKE

CERTIFICATE OF MAILING (37 C.F.R. 1.8a)

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I hereby certify that the attached Request for Certificate of Correction, and Return Postcard along with any paper(s) referred to as being attached or enclosed and this Certificate of Mailing are being deposited with the United States Postal Service on the date shown below with sufficient postage as first-class mail in an envelope addressed to the: Commissioner for Patents, Alexandria, V.A. 22313-1450.

Respectfully submitted,

SOFER & HAROUN, L.L.P.

By: _____
Valentina Papraniku

Date: July 28, 2008

Mailing Address:

SOFER & HAROUN, L.L.P.
317 Madison Avenue, Suite 910
New York, New York 10017
Tel:(212)697-2800
Fax:(212)697-3004
Customer No.: 39600

UNITED STATES PATENT AND TRADEMARK OFFICE

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c/o Schering-Plough Corporation
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Mail Stop: K-6-1, 1990
Kenilworth NJ 07033

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SEP 15 2008

In re Application of	:
Linders, et al.	: DECISION ON APPLICATION
Application No. 10/487,884	: FOR PATENT TERM ADJUSTMENT
Filed: September 24, 2004	:
Atty. Dkt. No.: 02001.666 US	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R.§1.705(B)," filed April 22, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby GRANTED TO THE EXTENT INDICATED HEREIN.

The correct determination of PTA at the time of the mailing of the Notice of Allowance is 42 days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed January 25, 2008, indicated a patent term adjustment (PTA) to date of zero days. The instant application for PTA was timely filed April 22, 2008. Applicants argue that the application is entitled to an adjustment of 365 days.

Applicants do not contest the adjustment of 122 days under 37 CFR 1.702(a)(2) accorded in connection with the mailing of the Notice of Allowance mailed January 25, 2008.

Applicants do not contest the reduction of 67 days under 37 CFR 1.704(b) accorded in connection with the response to non-final Office action, filed May 25, 2007.

Applicants argued that the application is entitled to an adjustment 84 days under the "14-Month Rule."

A review of the record reveals that the application is entitled to an adjustment of 84 days, as argued by applicants, in accordance with 37 CFR 1.702(a)(2). The adjustment commenced November 25, 2004, the day after the date that is 14 months after the date that the application was filed, and ended February 16, 2006, the date that the non-final Office action was

mailed. It is noted that a non-final Office action was mailed to the wrong correspondence address on June 28, 2005. The Office re-mailed the non-final Office action and set a new period of time for reply on February 16, 2006.

Applicants' further contest the reduction of 327 days accorded in correction with the response filed August 21, 2006 and argue that the correct adjustment in this regard is 97 days.

A review of the record reveals that the correct reduction in this regard is 97 days, as argued by applicants. In accordance with 37 CFR 1.704(b), the reduction commenced May 17, 2006, the day after the date that is three months after the date that the non-final Office action was mailed, and ended August 21, 2006, the date that the reply was filed.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. Decision in this regard is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three 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 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

In view thereof, at the time of allowance, the application is entitled to an overall adjustment of 42 days (adjustments totaling 206 days less reductions totaling 164 days).

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

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

Kery A. Fries

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

Enclosure: Adjusted PAIR Calculation

Day : Friday
Date: 9/12/2008

PALM INTRANET

Time: 10:01:10

PTA Calculations for Application: 10/487884			
Application Filing Date:	09/24/2004	PTO Delay (PTO):	122
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	394
Post-Issue Petitions:	0	Total PTA (days):	42
PTO Delay Adjustment:	314		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	09/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		97	
56	09/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	84		
55	09/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	327		
45	01/25/2008	MAIL NOTICE OF ALLOWANCE	122		37
44	01/23/2008	ISSUE REVISION COMPLETED			
43	01/23/2008	DOCUMENT VERIFICATION			
42	01/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	01/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
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39	05/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	10/11/2007	DATE FORWARDED TO EXAMINER			
37	05/25/2007	RESPONSE AFTER NON-FINAL ACTION		67	28
36	05/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	07/02/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
33	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	06/05/2007	CORRESPONDENCE ADDRESS CHANGE			
31	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	12/19/2006	MAIL NON-FINAL REJECTION			
27	12/13/2006	NON-FINAL REJECTION			
26	08/30/2006	DATE FORWARDED TO EXAMINER			
25	08/21/2006	RESPONSE AFTER NON-FINAL ACTION		327	17
		REQUEST FOR EXTENSION OF TIME - GRANTED			

24	08/21/2006				
23	02/16/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
22	02/14/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
18	06/28/2005	CORRESPONDENCE ADDRESS CHANGE			
17	06/28/2005	MAIL NON-FINAL REJECTION			
16	06/24/2005	NON-FINAL REJECTION			
15	04/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
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11	02/03/2005	CORRESPONDENCE ADDRESS CHANGE			
10	11/10/2004	CLEARED BY OIPE CSR			
9	09/24/2004	371 COMPLETION DATE			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Day : Friday
Date: 9/12/2008

PALM INTRANET

Time: 10:01:10

PTA Calculations for Application: 10/487884			
Application Filing Date:	09/24/2004	PTO Delay (PTO):	122
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	394
Post-Issue Petitions:	0	Total PTA (days):	42
PTO Delay Adjustment:	314		

File Contents History

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34	07/02/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
33	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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31	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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27	12/13/2006	NON-FINAL REJECTION			
26	08/30/2006	DATE FORWARDED TO EXAMINER			
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16	06/24/2005	NON-FINAL REJECTION			
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6	09/24/2004	ADDITIONAL APPLICATION FILING FEES			
3	09/24/2004	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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Date Calculator Result

From 11/24/2005 to 02/16/2006 is 84 days.

New calculation

Date Calculator Result

From 05/16/2006 to 08/21/2006 is 97 days.

New calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

ORGANON USA, INC.
c/o Schering-Plough Corporation
2000 Galloping Hill Road
Mail Stop: K-6-1, 1990
Kenilworth NJ 07033

In re Patent No. 7,435,817
Issued: October 14, 2008
Application No. 10/487,884
Filed: September 24, 2004
Dkt. No.: 02001.666 US

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR §1.705(D)," filed December 15, 2008.

The request for reconsideration of patent term adjustment (PTA) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Pat. No. 7,435,817 on October 14, 2008. The patent issued with a PTA 306 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 306 days to 519 days.

The request for reconsideration of the patent term adjustment makes reference to the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

Patentee asserts that the examination delay pursuant to 37 CFR 1.702(a) is 256 days and that the delay pursuant to 37 CFR 1.702(b) is 599 days. Patentee asserts that the 1.702(a) period of adjustment and the 1.702(b) period of adjustment overlap by 172 days. Patentee further asserts an applicant delay of 164 days. Thus, patentee asserts entitlement to an overall patent term adjustment of 519 days (599 days *plus* 256 *less* 172 days *less* 164 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 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 issuance of the patent on October 14, 2008, the application was pending three years and 599 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. 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 October 22, 2004, is August 23, 2001. Accordingly, the commencement date is February 23, 2004, and the period of adjustment pursuant to 37 CFR 1.703(b) began February 24, 2007, the day after the date that is three years after the date that national stage commenced, and ended October 14, 2008, the date that the patent issued, or 599 days.

The Office asserts that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 259 days is correct. The application was accorded an adjustment of 84 days in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action on February 16, 2006. The application was accorded an adjustment of 53 days in accordance with 37 CFR 1.702(a)(4) in connection with the issuance of the patent more than four months after the issue fee was submitted. The application was accorded an adjustment of 122 days in accordance with 37 CFR 1.702(a)(2) in connection with the mailing of the Notice of Allowance on January 25, 2008.

At issue is whether patentees should accrue an additional 599 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 259 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 259 days of examination delay overlaps with the period of 599 days of delay in issuance of the patent. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)),

the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application 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 national stage commenced under 35 U.S.C. 371(b) or (f) in an international 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, September 24, 2004, to the date the patent issued on October 14, 2008. Prior to the issuance of the patent, 259 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 599 days after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. However, the Office did not delay 599 days and also delay an additional 259 days. Accordingly, 599 days of patent term adjustment (not 599 days and 259 days) is properly entered because the period of delay of 259 days attributable to examination delay overlaps with the delay in the issuance of the patent. Entry of both periods is not warranted.

In view thereof, at the time of issuance of the patent, the application was entitled to an overall adjustment of 435 days (599 days *less* 164 days).

No additional fee is due in connection with this matter.

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.

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 435 days.

---

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,435,817 B2
DATED	:	October 14, 2008
INVENTOR(S)	:	Linders, 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 306 days

Delete the phrase "by 306 days" and insert – by 435 days--

0 9 DEC 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210

In re Application of :
MARSHAK-ROTHSTEIN *et al* :
U.S. Application No.: 10/487,885 :
PCT No.: PCT/US02/28708 :
Int. Filing Date: 09 September 2002 :
Priority Date: 07 September 2001 :
Attorney Docket No.: B1144.70000US02 :
For: METHODS AND COMPOSITION FOR :
TREATING IMMUNE COMPLEX :
ASSOCIATED DISORDERS :

DECISION ON PETITION UNDER 37 CFR 1.497(d)

This is a decision on applicants' request to add Mark J. Shlomchik as an inventor in the above-captioned national stage application filed 27 September 2004. This is treated as a request under 37 C.F.R. 1.497(d).

BACKGROUND

On 26 August 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. Applicants were given two months to comply with extensions of time available pursuant to 37 CFR 1.136(a).

On 27 September 2004, applicants filed a response which was accompanied by, *inter alia*, a declaration executed by four joint inventors, a $130.00 surcharge fee, a $130.00 fee, and a "Statement Under 37 C.F.R. 1.497(d)."

DISCUSSION

Applicants request that Mark J. Shlomchik be added as inventor to the above-captioned national stage application of PCT/US02/04059. A review of the international publication for PCT/US02/04059 ("WO 03/022296") shows that there were only three joint inventors which did not include Mark J. Shlomchik. There is no record of a change in the inventorship pursuant to PCT Rule 92*bis* in the international application.

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this

section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

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

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

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

Applicants have provided the requisite statement from Mark J. Shlomchik. Thus, item (1) is satisfied.

The $130.00 fee has paid. Item (2) is complete.

However, applicants have not provided the written consent of the assignee or addressed whether an assignment has been executed in the above-captioned national stage application. Applicants must address this item for a grantable petition. For this reason, item (3) is not yet satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet satisfied.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) to add Mark J. Shlomchik as an inventor is **DISMISSED** without prejudice.

Accordingly, the declaration filed 27 September 2004 is not yet in compliance with 37 CFR 1.497(a) and (b).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants must address item (3) of 37 CFR 1.497(d) with any response. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United

States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

3 JAN 2005

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210

In re Application of
MARSHAK-ROTHSTEIN *et al*
U.S. Application No.: 10/487,885
PCT No.: PCT/US02/28708
Int. Filing Date: 09 September 2002
Priority Date: 07 September 2001
Attorney Docket No.: B1144.70000US02
For: METHODS AND COMPOSITION FOR TREATING IMMUNE COMPLEX ASSOCIATED DISORDERS

DECISION ON PETITION UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.497(d)" to add Mark J. Shlomchik as an inventor in the above-captioned application filed via facsimile on 28 December 2004. No fee is required.

BACKGROUND

On 09 December 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d) to add an inventor in the above-captioned application. Applicants were given two months to respond with extensions of time available.

On 27 September 2004, applicants filed the renewed petition via facsimile.

DISCUSSION

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

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

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

Applicants previously completed items (1) and (2) of 37 CFR 1.497(d). However, applicants failed to address whether an assignment has been executed in the above-captioned application. Hence, item (3) of 37 CFR 1.497(d) was not satisfied.

In the renewed petition, applicants state that "no assignment had been executed by any of the inventors in the instant national stage application." This statement is sufficient to satisfy item (3).

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Mark J. Shlomchik as an inventor is hereby **GRANTED**.

The declaration filed 27 September 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 09 September 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 September 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WOLF GREENFIELD & SACKS, P.C.
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BOSTON MA 02210-2206

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In re Application of :
Marshak et al. :
Application No. 10/487,885 :
Filed: September 27, 2004 :
Attorney Docket No. :
B1144.70000US02 :
Title: METHOD AND COMPOSITION :
FOR TREATING IMMUNE COMPLEX :
ASSOCIATED DISORDERS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" filed November 4, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand sixty-eight (1068) days, not two hundred thirteen (213) 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**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been received. No additional fees are required.

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

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

/Kery A. Fries/

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

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

In re Application of	:	
KWON, Oh Seok	:	
Application No. 10/487,888	:	DECISION ON PETITION
Filed: February 23, 2004	:	TO WITHDRAW
Attorney Docket No. **01629/0200871-US0**	:	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 01, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Dianna Goldenson on behalf of all attorneys of record who are associated with customer No. 07276. All attorneys/agents associated with the Customer Number 07276 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed November 15, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **OH S. KWON**
257-27 YEONMOO DONG, JANGAN-KU
SUWON-SI

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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Peter G. Carroll
Medlen & Carroll. LLP
101 Howard St.
suite 350
San Francisco, CA 64105

Mail Date: 04/21/2010

Applicant	: Thaddeus Weglarz	: DECISION ON REQUEST FOR
Patent Number	: 7635798	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/487,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **437** 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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Lothar Bauch, et al.	:	
Application No. 10/487,911	:	DECISION ON PETITION
Filed: August 13, 2004	:	TO WITHDRAW
Attorney Docket No. 543822004400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 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 with customer No. 25227.

All attorneys/agents associated with the Customer Number 25227 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).

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: LOTHAR BAUCH
MEUSSLITZER STR. 125
01259 DRESDEN, GERMANY

cc: DICKE, BILLIG & CZAJA, PLLC
FIFTH STREET TOWER
SUITE 2250
100 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/487,911	08/13/2004	Lothar Bauch	543822004400

CONFIRMATION NO. 3899

OC000000025594282

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

25 JUN 2004

#3

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

In re Application of	:	
Pascal Aubrey et al	:	
Application No.: 10/487936	:	
PCT Application No.: PCT/FR02/02332	:	DECISION ON
International Filing Date: 04 July 2002	:	
Priority Date: 05 July 2001	:	PETITION UNDER
Attorney Docket No.: 249513US41PCT	:	
For: WELDING UNIT WITH	:	37 CFR 1.137 (b)
MINIATURIZED LASER BEAM	:	

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 03 March 2004, to revive the above identified application.

BACKGROUND

On 04 July 2002, applicant filed international application number PCT/FR02/02332 which claimed priority to an earlier filed France provisional application 0108920 filed on 05 July 2001.

On 05 January 2004, the international application became abandoned with respect to the failure to pay the basic national fee within 30 months from priority date of the international application.

On 03 March 2004, applicant submitted a petition for revival.

DISCUSSION

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

On 03 March 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $1330 Petition fee; (2) a Transmittal Letter for entry into the national stage in the United

States of America under 35 U.S.C. 371 along with the requisite national fee; and (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional,".

The application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.137 (b).

CONCLUSION

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

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

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

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JAN 29 2007

OFFICE OF PETITIONS

BAKER & DANIELS LLP
205 W. JEFFERSON BLVD, SUITE 250
SOUTH BEND, IN 46601

In re Application of	:	
BORGWARD, Glenn Rolus	:	
Application No. 10/487,957	:	DECISION ON PETITION
Filed: 10/487,957	:	TO WITHDRAW
Attorney Docket No. KSN0035	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 2006.

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

A review of the file record indicates that the power of attorney to Eric J. Groen of BAKER & DANIEL LLP has been revoked by the applicant of the patent application on June 22, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **IP STRATEGIES**
12 ½ WALL STREET, SUITE I
ASHEVILLE, NC 28801

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/487,957	10/07/2004	Glenn Rolus Borgward	KSN0035

CONFIRMATION NO. 7874

OC000000022196636

IP STRATEGIES
12 1/2 WALL STREET
SUITE 1
ASHEVILLE, NC 28801

Date Mailed: 01/29/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/22/2006.

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.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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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
10/487,957	10/07/2004	Glenn Rolus Borgward	KSN0035

CONFIRMATION NO. 7874

OC000000022196534

IP STRATEGIES
12 1/2 WALL STREET
SUITE 1
ASHEVILLE, NC 28801

Date Mailed: 01/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/22/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

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IP STRATEGIES
12 1/2 WALL STREET
SUITE E
ASHEVILLE NC 28801

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JAN 0 4 2010

OFFICE OF PETITIONS

In re Application of	:	
Borgward, Glenn Rolus	:	
Application No. 10/487,957	:	ON PETITION
Filed: Ocotber 7, 2004	:	
Attorney Docket No. GRUNP63	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 7, 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,110.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

This matter is being referred to Technology Center AU 3685 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

ROBERTS & ROBERTS, LLP
ATTORNEYS AT LAW
P.O. BOX 484
PRINCETON NJ 08542-0484

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of :
Alf Hammes : ON PETITION
Application No. 10/487,958 :
Filed: February 24, 2004 :
Atty Docket No. ZOU-2001DE508 :

This is in response to the "REQUEST TO WITHDRAW A HOLDING OF ABANDONMENT" filed April 24, 2009.

The above-identified application became abandoned for failure to file a proper reply to the Office letter mailed May 16, 2008. This Notice set a one-month period for reply, with extensions of time obtainable under § 1.136(a). No response was received and no extension of time was obtained. Accordingly, the application became abandoned effective June 17, 2008. A courtesy Notice of Abandonment was mailed on February 26, 2009.

Applicants' evidence is persuasive that as of February 15, 2008, a timely and proper response, including a request for continued examination (RCE) and claims 1-8 and 10-20, to the final rejection mailed September 17, 2007 was of record in this application. Under the circumstances of this case, withdrawal of the holding of abandonment is appropriate.

In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

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

No fee is required on petition under § 1.181.

Technology Center AU 1623 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of

abandonment and for consideration by the examiner of the reply filed February 15, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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C. JAMES BUSHMAN
5718 WESTHEIMER
SUITE 1800
HOUSTON, TX 77057

COPY MAILED

JUL 22 2008

In re Application of	:	
Kwetkat et al.	:	
Application No. 10/487,961	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. Muller-46	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 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 July 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). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was filed. Accordingly, the date of abandonment of this application is January 24, 2008. A Notice of Abandonment was mailed May 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/10/07

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/487970 Patent No.: 7021222 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: CORRECTIONS INVOLVE A TITLE CHANGE MADE IN A PRELIMINARY AMENDMENT OF 2/27/04 AND A REFERENCE CITED IN AN IDS FILED FEBRUARY 27, 2004.

[signature] SPE

3749 Art Unit

PTOL-306 (REV. 7/00) STEVE MCALLISTER SUPERVISORY PATENT EXAMINER

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

31 MAR 2005

#4

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Pamela J. Ruschau
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780

In re Application of	:	
OVERSCHIE	:	DECISION ON PETITION
Serial No.: 10/487,977	:	
PCT No.: PCT/AU02/01175	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 29 August 2002	:	
Priority Date: 29 August 2001	:	
Atty Docket No.: 227737	:	
For: VEHICLE GUIDANCE SOFTWARE,	:	
METHOD AND SYSTEM	:	

This decision is in response to the applicant's "Petition by Person Having Proprietary Interest to File Application on Behalf of Inventor Who Refuses to Sign (37 C.F.R. §1.47(b))" filed 27 January 2005 to accept the application without the signature of inventor Jaap Overschie.

BACKGROUND

On 29 August 2002, applicant filed international application PCT/US02/01175 , which claimed priority of an earlier application filed 29 August 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2004.

On 27 February 2004, 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 Information Disclosure Statement and a First Preliminary Amendment. An executed oath or declaration of the inventor as required by 35 U.S.C. 371 (c)(4) was not filed.

On 22 June 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. In addition, applicant was notified of the need to provide payment of the surcharge of for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e). 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 27 January 2005, applicant responded with the present petition accompanied by a

petition for a five-month extension of time. With the filing of the petition for a five-month extension of time, payment of the extension fee and certification that the papers were deposited for mailing on 21 January 2005, the papers filed 27 January 2005 are considered to be timely filed.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(g); (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 non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing 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 applicant's petition and accompanying exhibits finds that all items have been satisfied.

Regarding item (1), applicant has authorized charging of the $200.00 petition fee to Deposit Account No.: 12-1216.

As to item (2), applicant has provided through the executed declaration of counsel sufficient evidence to show that the non-signing inventor, Mr. Overschie, has been provided with a complete set of the application papers and declaration document for execution and has not returned an executed version of said document. Specifically, by his own account the non-signing inventor promised a response by mid-November 2004 and has of the day of filing not provided said answer.

Regarding item (3), applicant has provided the last known address of the non-signing inventor.

As to item (4), applicant has provided a declaration executed by Mr. Paul Turner, on behalf of the corporate entity, Beeline Technologies, pty ltd. and the non-signing inventor, Jaap Overschie.

Regarding item (5), applicant has provided copy of an executed deed of settlement detailing the rights of Beeline Technologies to the subject invention as it was developed by Mr. Overschie during his employ. In addition, applicant has provided a signed statement from Mr. Michael Roff attesting to these facts.

As to item (6), counsel has supplied the requisite statement that the present action is necessary to preserve the rights of the parties or to prevent irreparable damages.

As such, it is proper to grant applicant's petition under 37 CFR 1.47(b) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **GRANTED**.

The application has an international filing date of 29 August 2002 under 35 U.S.C. 363, and will be given a date of **27 January 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 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 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

31 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Mr. Jaap Overschie
161 Fernberg Road
Paddington, Queensland 4064
AUSTRALIA

In re Application of :
OVERSCHIE :
Serial No.: 10/487,977 :
PCT No.: PCT/AU02/01175 :
Int. Filing Date: 29 August 2002 :
Priority Date: 29 August 2001 :
Atty Docket No.: 227737 :
For: VEHICLE GUIDANCE SOFTWARE, :
METHOD AND SYSTEM :

Dear Mr. Overschie:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 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

Pamela J. Ruschau
Leydig, Voit & Mayer, Ltd.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780
United States of America

United States Patent and Trademark Office

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

12 JAN 2007

In re Application of	:	
Kikuyama et al.	:	
Application No.: 10/488,036	:	DECISION
PCT No.: PCT/JP02/08868	:	
Int. Filing Date: 02 September 2002	:	ON
Earliest Priority Date: 31 August 2001	:	
Attorney Docket No.: FUK-161	:	PETITION
For: Surface Treating Fluid For Fine Processing	:	
Of Multi-Component Glass Substrate	:	

The petition to revive under 37 CFR 1.137(b) filed 04 January 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicants state 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." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have filed the required reply in the form of a declaration in compliance with the requirements of 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h). The petition fee accompanied the instant petition. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **14 August 2006** (i.e., the date the acceptable declaration was filed).

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

20 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Raymond J. Harmuth
Bayer Cropscience, LP
Patent Department
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of FEUCHT, et al. Application No.: 10/488,037 PCT No.: PCT/EP02/09329 Int. Filing Date: 22 August 2002 Priority Date: 03 September 2001 Attorney Docket No.: CS8135/LeA 35,662 For: SELECTIVE HERBICIDES BASED ON SUBSTITUTED ARYLSULPHONY-LAMINOCARBONL-TRIAZOLINONES AND SAFEENERS	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition Under 37 CFR 1,182" filed in the United States Patent and Trademark Office (USPTO) on 12 June 2006. As authorized, the $400 petition fee under 37 CFR 1.17 has been charged to Deposit Account no. 50-2510.

BACKGROUND

On 22 August 2002, applicant filed international application PCT/EP02/09329 which claimed a priority date of 03 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 March 2003. 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, 03 March 2004.

On 27 February 2004, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; an English translation of the international application; and a preliminary amendment.

On 21 July 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 executed by the inventors and the $130.00 surcharge for filing after the thirty-month period were required. The notification set a two month period for response.

On 07 June 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 respond to the Notification of Missing Requirements mailed 21 July 2004.

On 12 June 2006, applicant filed the presently considered "Petition Under 37 CFR 1,182" which was accompanied by a copy of the declaration/power of attorney and a post card receipt dated 06 August 2004 for application no. 10/486,037. It is noted that the $130 surcharge for submitting a declaration later than 30 months was charged to application no. 10/486,037. These fees will be transferred to the present National stage application.

DISCUSSION

Applicant's present petition under 37 CFR 1.182 seeks to correct the application number identified on applicant's 06 August 2004 submission to the proper application number, that is, 10/488,037.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant and title. The receipt itemizes, inter alia: "Submission of Missing Parts of Application Under 37 CFR 1.53 - 3 copies, Formalities letter, Combined Declaration and Power of Attorney." The receipt is stamped "OIPE JC112 Patent & Trademark Office AUG 06 2004" across its face. A review of the papers filed 06 August 2004 reveals that the declaration and copy of the Form PCT/DO/EO/905 applicant supplied included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/488,037.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is GRANTED.

The Notification of Abandonment mailed 07 June 2006 is hereby VACATED.

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 22 August 2002 and a date of **06 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing 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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BAYER CROPSCIENCE LP
Patent Department
2 T .W. ALEXANDER DRIVE
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Dieter Feucht	: DECISION ON REQUEST FOR
Patent Number	: 7615514	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/488,037	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **196** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

29 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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#2

Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of	:	
Min et al.	:	
Application No. 10/488,046	:	
PCT No.: PCT/KR01/01543	:	
Int. Filing Date: 14 September 2001	:	DECISION
Priority Date: 27 August 2001	:	
Atty. Docket No.: SUN-0039	:	
For: Optical Recording Medium	:	
	:	

This is in response to "Request For Refund" filed on 16 April 2004.

BACKGROUND

This international application was filed on 14 September 2001, claimed an earliest priority date of 27 August 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 March 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 27 February 2004. On 27 February 2004, applicant filed *inter alia* the large entity basic national fee.

DISCUSSION

Applicants "respectfully request a refund of excess fees paid for the filing of the above-identified application. On the filing date of February 27, 2004, Applicants submitted a check in the amount of $1,080.00 to cover the large entity filing fee in the application in lieu of a check in the amount of $540.00 to cover the small entity filing fee." This request invokes 37 CFR 1.28(a), which provides that

> A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

Review of the record reveals that applicants filed the $1080.00 large entity basic national fee on 27 February 2004. Fewer than three months later, applicants filed the instant request, accompanied by an "Assertion of Small Entity" statement. Under the facts of this case, it would be appropriate to grant the requested refund.

DECISION

The refund request is **GRANTED**.

Counsel's Deposit Account No. 06-1130 is being credited in the amount of $540.00.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Oleg Victororvich Salata	: DECISION ON REQUEST FOR
Patent Number	: 7642996	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/488,054	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-27-07

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/488055 Patent No.: 7221999

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

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

Please Check Drawing sheets

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

C Young

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: Correction has been approved. m.m 8/19/09

SPE _____ Art Unit _____

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Stefan Brosig	: DECISION ON REQUEST FOR
Patent Number	: 7656056	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/488,078	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Hoffman Wasson & Gitler
Crystal Center 2 Suite 522
2461 South Clark Street
Arlington VA 22202

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JUN 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter Schmidkonz, et al.	:	
Application No: 10/488,094	:	DECISION ON PETITION
Filed: July 7, 2004	:	
Attorney Docket No. A-8969	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 13, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 11, 2007. Accordingly, the date of abandonment of this application is August 14, 2007. The Notice of Abandonment was mailed September 5, 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 $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." 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.

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

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

Chris Bottorff
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 4, 2006

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/488102 Patent No.: 6,923,850

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: OK

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE

1724
Art Unit

04 JAN 2005

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26948
ELLIS & VENABLE PC
101 North First Ave.
Suite 1875
Phoenix, AZ 85003

In re Application of :
ASICI, Yasar Heskurt *et al* :
Application No.: 10/488,115 :
PCT No.: PCT/TR02/00048 :
Int. Filing Date: 28 August 2002 : **DECISION**
Priority Date: 29 August 2001 :
Attorney Docket No.: PHDL0840-001 :
For: A DEVICE AND METHOD FOR :
WRAPPING A GALOSH AROUND :
A FOOTWEAR :

This decision is in response to applicants' "Petition to Correct File" filed via facsimile on 29 October 2004 which is treated as a petition under 37 CFR 1.181 and is hereby **GRANTED** as follows:

A review of the Image File Wrapper (IFW) system shows that several papers from another application were inadvertently scanned into the above-captioned application on 09 April 2004. These papers have been removed and placed in the appropriate file.

No fee is required for this petition.

This application is being forwarded to the appropriate Technology Center for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

7-27-09

Commissioner for Patents
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P.O. Box 1450
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Patent No. :7,498,045 B2
Ser. No. : 10/488,116
Inventor(s) : March 3, 2009
Title :BIODEGRADABLE POLYMERIC NANOCAPSULES AND USES THEREOF

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
40l 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

J. David Smith
Klauber & Jackson
411 Hackensack Avenue
Hackensack, New Jersey 07601

ej

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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

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SEP 2 5 2009

OFFICE OF PETITIONS

In re Patent No. 7,498,045	:	
Issue Date: March 3, 2009	:	
Application No. 10/488,116	:	ON PETITION
Filed: December 12, 2004	:	
Attorney Docket No. 979-1-025	:	

This is a decision on the petition filed August 3, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner should note that a Certificate of Correction fee of $100 will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059. 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

---

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

19 NOV 2004

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CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON, TX 77253-3267

In re Application of SIPUSIC et al	:	
U.S. Application No.: 10/488,118	:	
PCT Application No.: PCT/SG01/00174	:	
Int. Filing Date: 31 August 2001	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: 2085-01500	:	
For: TIME-BASED MEDIA NAVIGATION	:	
SYSTEM	:	

This is in response to applicant's "Petition and Fee for Filing on Behalf of Non-Signing Inventor (37 C.F.R. 1.47)" filed 01 November 2004.

BACKGROUND

On 31 August 2001, applicant filed international application PCT/SG01/00174. A copy of the international application was communicated to the USPTO from the International Bureau on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 29 February 2004.

On 27 February 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 August 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 November 2004, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

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.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The present petition includes a copy of a letter sent to the nonsigning inventor Tommy Nordqvist (see "Exhibit A"). The letter states that Mr. Nordqvist had been contacted "several times" and that Mr. Nordqvist had acknowledged receipt of certain documents. Thus, it would not be reasonable to conclude at the present time that Mr. Nordqvist cannot be reached.

Furthermore, petitioner has not presented sufficient evidence of Mr. Nordqvist's refusal to sign the application papers. Specifically, petitioner has not demonstrated by documentary evidence that a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) were presented to and received by Mr. Nordqvist. It would not

be reasonable to conclude that Mr. Nordqvist refuses to sign papers that he has never received. Additionally, petitioner has not presented adequate evidence of any purported refusal. In particular, there is no evidence that Mr. Nordqvist was made aware that failure to respond by a certain date would be construed as a refusal to sign. Therefore, it would not be reasonable to conclude at the present time that Mr. Nordqvist refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). 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: 571-272-3303
Facsimile: 571-273-0459

21 MAR 2005

#8

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P. O. BOX 3267
HOUSTON, TX 77253-3267

In re Application of SIPUSIC et al	:	
U.S. Application No.: 10/488,118	:	
PCT Application No.: PCT/SG01/00174	:	
Int. Filing Date: 31 August 2001	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: 2085-01500	:	
For: TIME-BASED MEDIA NAVIGATION	:	
SYSTEM	:	

This is in response to applicant's "Response to Decision to Dismiss Applicant's Rule 1.47 Petition" filed 17 March 2005.

BACKGROUND

On 31 August 2001, applicant filed international application PCT/SG01/00174. A copy of the international application was communicated to the USPTO from the International Bureau on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 29 February 2004.

On 27 February 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 August 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 November 2004, applicant filed a petition under 37 CFR 1.47(a).

On 19 November 2004, this Office mailed a decision dismissing the 01 November 2004 petition.

On 17 March 2005, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Tommy Nordqvist refuses to sign the application papers. Petitioner has adequately demonstrated that a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) were presented to and received by Mr. Nordqvist (see electronic mail message reply of Nordqvist dated 17 January 2005). Furthermore, petitioner has presented sufficient evidence of Nordqvist's refusal to sign. In particular, the electronic mail message dated 14 February 2005 set a response date of 25 February 2005 and stated that a refusal to timely respond would be treated as a refusal to sign. The petition states that no response from Nordqvist has been received. Thus, it can be concluded with reasonable certainty that Nordqvist refuses to join in the application.

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 31 August 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 01 November 2004.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

21 MAR 2005

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Tommy Gunnar Nordqvist
1 Pearl Hill #37-03B
Pearl Bank Apartment
Singapore, Republic of Singapore 169016

In re Application of SIPUSIC et al
U.S. Application No.: 10/488,118
PCT Application No.: PCT/SG01/00174
Int. Filing Date: 31 August 2001
Priority Date Claimed: (none)
For: TIME-BASED MEDIA NAVIGATION SYSTEM

Dear Tommy Gunnar Nordqvist:

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

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON, TX 77253-3267

Attorney Docket No.: 2085-01500

2 0 DEC 2004

#6

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CONLEY ROSE, P.C.
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In re Application of	:	
SIPUSIC et al.	:	
Application No.: 10/488,119	:	DECISION
PCT No.: PCT/SG01/00248	:	
Int. Filing Date: 07 December 2001	:	
Priority Date: 31 August 2001	:	
Attorney Docket No.: 2085-01600(KRD-P001US	:	
For: ITERATIVE COLLABORATIVE	:	
ANNOTATION SYSTEM	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 23 September 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 December 2001, applicants filed international application PCT/SG01/00248, which designated the United States and claimed a priority date of 31 August 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 March 2004 (28 February 2004 being a Saturday).

On 27 February 2004, 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 18 June 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 September 2004, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a one month extension of time, a declaration of facts by Jonathan M. Harris, and copies of e-mails between the non-signing inventor Tommy Gunnar Nordqvist and Loh Sin Yong.

DISCUSSION

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

Items (1), (3) and (4) have been satisfied.

Item (2) has not been satisfied. To establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). While the non-signing inventor, Tommy Gunnar Nordqvist, was presented with a declaration of inventors, it does not appear that he was presented with the specification. "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." MPEP 409.03(d). Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
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Telephone: (571) 272-3301
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22 FEB 2005

#8

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In re Application of	:	
SIPUSIC et al.	:	
Application No.: 10/488,119	:	DECISION
PCT No.: PCT/SG01/00248	:	
Int. Filing Date: 07 December 2001	:	
Priority Date: 31 August 2001	:	
Attorney Docket No.: 2085-01600(KRD-P001US	:	
For: ITERATIVE COLLABORATIVE	:	
ANNOTATION SYSTEM	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed via facsimile transmission on 03 February 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 December 2001, applicants filed international application PCT/SG01/00248, which designated the United States and claimed a priority date of 31 August 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 March 2004 (28 February 2004 being a Saturday).

On 27 February 2004, 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 18 June 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 September 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a one month extension of time, a declaration of facts by Jonathan M. Harris, and copies of e-mails between non-signing inventor Tommy Gunnar Nordqvist and Loh Sin Yong.

On 20 December 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that it did not appear that Mr. Nordqvist was presented with a copy of the application papers (specification, including claims, drawings, and oath or declaration).

On 03 February 2005, applicants submitted the instant renewed petition under 37 CFR 1.47(a) which was accompanied by a copy of a letter to Mr. Nordqvist from Mr. Loh Sin Yong.

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.

As noted in the decision mailed 20 December 2004, items (1), (3) and (4) have been satisfied.

Item (2) still has not been satisfied. While the copy of the letter from Mr. Yong to Mr. Nordqvist indicates that a copy of the application papers were sent with the letter, there is no evidence that the letter or application papers were received by Mr. Nordqvist, e.g., a copy of some sort of mail receipt signed by Mr. Nordqvist or a letter from Mr. Nordqvist acknowledging receipt. Also, while the letter sets a deadline for response, the letter does not indicate how the failure to meet the deadline will be construed, e.g., that the failure to meet the deadline will be construed by the sender as a refusal to execute the declaration.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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20 MAY 2005

#10

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CONLEY ROSE, P.C.
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In re Application of	:	
SIPUSIC et al.	:	
Application No.: 10/488,119	:	DECISION
PCT No.: PCT/SG01/00248	:	
Int. Filing Date: 07 December 2001	:	
Priority Date: 31 August 2001	:	
Attorney Docket No.: 2085-01600(KRD-P001US	:	
For: ITERATIVE COLLABORATIVE	:	
ANNOTATION SYSTEM	:	

This is a decision on applicants' second renewed petition under 37 CFR 1.47(a) filed via facsimile transmission on 01 April 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 December 2001, applicants filed international application PCT/SG01/00248, which designated the United States and claimed a priority date of 31 August 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 March 2004 (28 February 2004 being a Saturday).

On 27 February 2004, 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 18 June 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 23 September 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a one month extension of time, a declaration of facts by Jonathan M. Harris, and copies of e-mails between non-signing inventor Tommy Gunnar Nordqvist and Loh Sin Yong.

On 20 December 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that it did not appear that Mr. Nordqvist was presented with a copy of the application papers (specification, including claims, drawings, and oath or declaration).

On 03 February 2005, applicants submitted a renewed petition under 37 CFR 1.47(a) which was accompanied by a copy of a letter to Mr. Nordqvist from Mr. Loh Sin Yong.

On 22 February 2005, a decision was mailed dismissing applicants' renewed petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided.

On 01 April 2005, applicants submitted the instant second renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, copies of e-mails between Mr. Nordqvist and Mr. Loh Sin Yong.

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.

As noted in the decision mailed 20 December 2004, items (1), (3) and (4) have been satisfied.

Item (2) has now been satisfied. Exhibit F establishes that the application papers were received. Exhibit A establishes a refusal to sign.

CONCLUSION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to 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 Office

of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **23 September 2004**.

Daniel Stemmer
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Legal Administration
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20 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Tommy Gunnar Nordqvist
120 Sunset Way, Clementi Park
Singapore, Republic of Singapore

In re Application of
SIPUSIC et al.
Application No.: 10/488,119
PCT No.: PCT/SG01/00248
Int. Filing Date: 07 December 2001
Priority Date: 31 August 2001
Attorney Docket No.: 2085-01600(KRD-P001US
For: ITERATIVE COLLABORATIVE ANNOTATION SYSTEM

Dear Mr. Nordqvist:

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

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

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20 MAY 2005

JC02 Rec'd PCT/PTO 07 JUN 2005

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Tommy Gunnar Nordqvist
120 Sunset Way, Clementi Park
Singapore, Republic of Singapore

In re Application of
SIPUSIC et al.
Application No.: 10/488,119
PCT No.: PCT/SG01/00248
Int. Filing Date: 07 December 2001
Priority Date: 31 August 2001
Attorney Docket No.: 2085-01600(KRD-P001US
For: ITERATIVE COLLABORATIVE ANNOTATION SYSTEM

Dear Mr. Nordqvist:

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

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

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OFFICE OF PETITIONS

FAY SHARPE LLP
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND, OH 44115

In re Application of
Stephen L.Cook, et al.
Application No.: 10/488,134
Filed: August 12, 2004
Attorney Docket No.: YOUZ 2 00103

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 25, 2009.

The application became abandoned for failure to submit a substitute oath or declaration in a timely manner in reply to the Notice of Allowability, mailed September 3, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 4, 2008. A Notice of Abandonment was mailed on December 16, 2008. On March 26, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of substitute declaration; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SCOTT A. MCCOLLISTER
FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114-2579

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

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ROCHE DIAGNOSTICS OPERATIONS INC.
9115 Hague Road
Indianapolis IN 46250-0457

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APR 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Herbert Harttig et al.	:	
Application No. 10/488,135	:	DECISION ON PETITION
Filed: August 26, 2004	:	
Attorney Docket No. 20997US-dc	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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 be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3767 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

10 AUG 2004

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Chris T. Mizumoto
Darby & Darby P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of INO et al	:	
U.S. Application No.: 10/488,138	:	
PCT Application No.: PCT/JP02/08665	:	DECISION
Int. Filing Date: 28 August 2002	:	
Priority Date Claimed: 29 August 2001	:	
Attorney Docket No.: 09859/0200169-US0	:	
For: ARYL SULFAMATE DERIVATIVES	:	

This is in response to applicant's "Response to Notice to File Missing Parts of Application" filed 12 July 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 August 2002, applicant filed international application PCT/JP02/08665, which claimed priority of an earlier Japan application filed 29 August 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 13 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 29 February 2004.

On 24 February 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 19 March 2004, applicant purportedly filed an executed declaration.

On 29 June 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 July 2004, applicant filed the present petition under 37 CFR 1.181 along with a copy of the declaration purportedly filed on 18 March 2004.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 19 March 2004 is not present.

MPEP 503 states,

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In the present case, the postcard receipt offered by applicant does not bear a USPTO date stamp. Therefore, the declaration is not entitled to the filing date requested.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

The application has an International Filing Date under 35 U.S.C. 363 of 28 August 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 12 July 2004.

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

Bryan Tung
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02 NOV 2004

#7

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LERNER AND GREENBERG, PA
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HOLLYWOOD, FL 33022-2480

In re Application of MARZIAN et al	:	
U.S. Application No.: 10/488,148	:	
PCT Application No.: PCT/EP02/09709	:	DECISION
Int. Filing Date: 30 August 2002	:	
Priority Date Claimed: 31 August 2001	:	
Attorney Docket No.: C-80018	:	
For: METHOD FOR AUTOMATIC PATTERN	:	
RECOGNITION AND REGULATION. . . .	:	

This is in response to applicant's "Petition Under 37 CFR 1.47(a)" filed 14 October 2004.

BACKGROUND

On 30 August 2002, applicant filed international application PCT/EP02/09709, which claimed priority of an earlier Germany application filed 31 August 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 13 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 29 February 2004.

On 27 February 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 July 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 14 October 2004, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor John Gaudet.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that inventor Gaudet refuses to sign the application papers. However, it cannot be determined at the present time whether a bona fide attempt was made to present a complete copy of the application papers to Gaudet for signature. Although the English translations of the letters sent to Gaudet refer to enclosed "documents", applicant has not sufficiently established that such documents included the specification, claims, and drawings. Furthermore, the petition does not contain adequate evidence of Gaudet's purported refusal to sign. Even though multiple communications sent to Gaudet apparently did not result in the return of a signed declaration, the communications did not set a time period for response and did not state that Gaudet's failure to respond within the time period would be construed as a refusal to sign. Therefore, it would not be reasonable to conclude at the present time that Gaudet refuses to join in the application.

With regard to item (3) above, the requisite petition fee will be charged to Deposit Account No. 12-1099 as authorized in the petition.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

22 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas, Kayden, Horstemeyer & Risley, L.L.P.
100 Galleria Parkway, NW
Suite 1750
Atlanta, GA 30339-5948

In re Application of	:	
PAYEN	:	
Application No.: 10/488,157	:	
PCT No.: PCT/FR02/02966	:	DECISION ON PETITION
Int. Filing Date: 30 August 2002	:	
Priority Date: 31 August 2001	:	UNDER 37 CFR 1.181
Atty. Docket No.: 80350-1160	:	
For: APPLIANCE FOR COOKING FOOD, IN PARTICULAR FRYER, COMPRISING A CATALYST AND MEANS FOR REGULATING SAID CATALYST	:	

This decision is in response to applicant's "Petition to Secure Filing Date as of Mailing Date via Express Mail" filed 06 April 2005 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 30 August 2002, applicant filed international application PCT/FR02/02966, which claimed priority of an earlier application filed 31 August 2001. A copy of the international application was communicated to the United States Patent and Trademark Office form the International Bureau on 06 March 2003. 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 February 2004.

On 27 February 2004, 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 an information disclosure statement. An executed oath or declaration of the inventor was not filed; however applicant provided payment of the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date.

On 14 June 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 inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

On 13 August 2004, applicant filed an declaration executed by the inventor.

On 27 August 2004, applicant was mailed a "NOTIFICATION OF ACCEPTANCE" (Form PCT/DO/EO/903) indicating a 371 date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements as 13 August 2004.

On 06 April 2005, applicant filed the present petition under 37 CFR 1.181 seeking a 35 U.S.C. 371 date of 27 February 2004.

DISCUSSION

As detailed above, an executed declaration of the inventor was not filed with the Office until 13 August 2004. As such, the dates indicated on the Form PCT/DO/EO/903 mailed 27 August 2004 are correct.

CONCLUSION

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

This application is being returned to the DO/EO/US for continued processing and forwarding to the appropriate Group Art Unit.

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

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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JUL 26 2006
OFFICE OF PETITIONS

In re Application of :
Bruno et al. :
Application No. 10/488,167 :
Filed: October 20, 2004 :
Attorney Docket No. 0597-1001 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 18, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 2, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 3, 2005. A Notice of Abandonment was mailed on February 8, 2006.

With the instant petition, Petitioner has filed an Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3662 for processing of the Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

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AUG 3 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Christian Depeursinge et al	:	
Application No. 10/488,171	:	NOTICE
Filed: March 5, 2004	:	
Attorney Docket No. PC-1668US	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 2874.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J R Deshmukh
458 Chery Hill Road
Princeton NJ 08540

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Vittorio De Nora	:	
Application No. 10/488,172	:	DECISION ON PETITION
Filed: March 1, 2004	:	
Attorney Docket No. MOL0656	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 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 $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1753 for appropriate action by the Examiner in the normal course of business.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

28 SEP 2004

#5

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20037

In re Application of	:	
Focke et al.	:	
Application No. 10/488,186	:	
PCT No.: PCT/EP02/10239	:	
Int. Filing Date: 12 September 2002	:	COMMUNICATION
Priority Date: 14 September 2001	:	
Atty. Docket No.: Q80103	:	
For: Method For Identifying Objects And	:	
Object Provided With An Electronic	:	
Data Carrier	:	

This is in response to the "Response To Notification Of Missing Requirements..."filed on 05 August 2004, which is being treated under 37 C.F.R. 1.42.

BACKGROUND

This international application was filed on 12 September 2002, claimed an earliest priority date of 14 September 2001, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 27 March 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 15 March 2004 (since 14 March 2004 was a Sunday). Applicants filed, *inter alia*, the basic national fee on 01 March 2004.

On 21 July 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

Review of the declaration of the inventors filed on 05 August 2004 reveals that it indicates that joint inventor Heinz Focke is deceased. 37 CFR 1.42 provides in part that

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

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the

person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Further examination of the declaration reveals that it is signed on behalf of the deceased inventor by Jurgen Focke and Doris Focke in the capacity of "Legal Representatives of the Deceased Inventor." It is presumed that Jurgen Focke and Doris Focke are all of the legal representatives of Heinz Focke. If this is not the case, counsel is required promptly to so notify the Office of PCT Legal Administration. The declaration includes the facts which the deceased inventor would have been required to state, and it also indicates the citizenships and mailing addresses of the legal representatives as required by 37 CFR 1.497(b)(2). It is also presumed that the residence information for the legal representatives is the same as their mailing address information. If this is not the case, counsel is required promptly to so notify the Office of PCT Legal Administration.

CONCLUSION

The submission under 37 CFR 1.42 is **ACCEPTED**.

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 **05 August 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

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ALEXANDRIA, VA 22313-1450
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Marcarez Bernard
CD 324 Serre de Bourt
Quartier Labagnere
Lasseube 64290 FR FRANCE

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NOV 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Marcarez Bernard	:	
Application No. 10/488,189	:	
Filed: March 1, 2004	:	ON PETITION
Title of Invention:	:	
GAS TURBINE WITH INTERMITTENT	:	
COMBUSTION	:	

This is a decision on the petition under 37 CFR 1.137(a), filed October 26, 2005, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), 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 37 CFR 1.137". 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 non-final Office action, mailed January 14, 2005. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned March 15, 2005. A Notice of Abandonment was mailed on October 11, 2005.

The instant petition

Applicant files the instant petition and fee of $55.00 for the petition.

Applicant is advised that, before this Office can consider the petition, the appropriate petition fee must be submitted. The fee for a petition to revive an application abandoned unavoidably was increased on December 8, 2004, to $250 for a small entity.

Accordingly, Patentee must provide an **additional $195** BEFORE THE PETITION MAY BE CONSIDERED ON THE MERITS.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Marcarez Bernard
CD 324 Serre de Bourt
Quartier Labagnere
Lasseube 64290 FR FRANCE

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OFFICE OF PETITIONS

In re Application of	:	
Marcarez Bernard	:	
Application No. 10/488,189	:	
Filed: March 1, 2004	:	ON PETITION
Title of Invention:	:	
GAS TURBINE WITH INTERMITTENT	:	
COMBUSTION	:	

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.137(a), filed March 29, 2006 via facsimile, and April 5, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), 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 37 CFR 1.137". 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 non-final Office action, mailed January 14, 2005. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned March 15, 2005. A Notice of Abandonment was mailed on October 11, 2005.

Applicant's assertion

Applicant asserts that "[t]he delay was unavoidable because there was too much work to do in the 6 months delay allowed."

Petition under 37 CFR 1.137(a) for unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), 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 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 item (**3**).

As to item (3), the general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1] 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added). "In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C.

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")).

"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"

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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

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.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston 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). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). 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).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

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certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Applicant's Assertion

Applicant asserts that "[t]he delay was unavoidable because there was too much work to do in the 6 months delay allowed."

Analysis and Conclusion

Applicant is advised that under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of notice of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office.

As such, the application became abandoned because Applicant failed to file a complete and proper reply within the time period set by statute. As stated above, a delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay.

Because Applicant was unaware of the statutory requirement to reply within six (6) months of the mailing of the Office action (including a three (3) month extension of time request and fee), does not render the delay unavoidable.

As such, the petition is dismissed.

Alternative 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, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that

the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail: 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

21 SEP 2004

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

OLIFF & BERRIDGE
P.O. Box 19928
Alexandria, VA 22320

In re Application of:	:	
YAMAGA, Kenji, et al.	:	
U.S. Application No.: 10/488,194	:	DECISION
PCT No.: PCT/JP02/08399	:	
International Filing Date: 21 August 2002	:	
Priority Date: 28 August 2001	:	
Attorney's Docket No.: 118840	:	
For: STAMPER FOR FABRICATION OF OPTICAL RECORDING MEDIUM, METHOD OF FORMING INFORMATION RECORDING AREA AND LIGHT TRANSMISSIVE LAYER, AND OPTICAL RECORDING MEDIUM	:	

This decision is issued in response to applicants' "Response To Notification Of Missing Requirements" filed 27 July 2004 (and resubmitted with a "Filing Receipt Status Request on 01 September 2004). No petition fee is required.

BACKGROUND

On 21 August 2001, applicants filed international application PCT/JP02/08399 which claimed a priority date of 28 August 2001 and which designated the United States. On 13 March 2003, 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., 01 March 2004 (28 February 2004 was a Saturday).

On 01 March 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee, an English translation of the international application, and an executed declaration.

On 21 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required. The Notification indicated that the declaration filed 01 March 2004 was not acceptable because it did not indicate the citizenship of the third inventor.

On 27 July 2004, applicants filed the submission considered herein. This submission included a copy of the previously submitted declaration, and argues that a translation of the

citizenship information for the third inventor is included in the filed declaration. Based on this assertion, applicants argue that the declaration filed 01 March 2004 satisfies 37 CFR 1.497.

DISCUSSION

37 CFR 1.69 states that an oath or declaration executed in a foreign language must be accompanied by an English translation (together with a statement that the translation is accurate). The rule notes that such a translation may be submitted within two months from the date applicant is notified to file the translation. Here, the declaration filed 01 March 2004 did not include a complete translation, in that the citizenship of the third inventor was not translated.

Applicants' 27 July 2004 submission notes that the same Japanese characters used to indicate the citizenship of the first two inventors are also used to indicate the citizenship of the third inventor. The translation of these characters ("Japanese") is expressly set forth with respect to the first two inventors. Applicants' assert that the provided translation of these Japanese characters with respect to the first two inventors satisfies the translation requirement with respect to the citizenship of the third inventor.

The statements made by applicants in the 27 July 2004 submission, as a whole, are interpreted as a confirmation that the proper translation of the citizenship for the third inventor, Kazuki SUZAWA, is "Japanese." If this is not a proper interpretation of the 27 July 2004 submission, applicants **must** contact this Office immediately and indicate such.

CONCLUSION

Based on the above, applicants' 27 July 2004 submission is accepted as confirming that the proper translation of the citizenship for the third inventor is "Japanese."

The submission completing the translation was submitted within two months of applicants being informed of the defect in the translation. Accordingly, the declaration filed 21 March 2004 may be accepted under 37 CFR 1.497, and payment of the surcharge for late-filing of the declaration is not required.

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 01 March 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 15 2005

JAMES REMENICK
MORRISON & FOERSTER
SUITE 300
1650 TYSONS BOULEVARD
MCLEAN VA 22102

In re Application of	:
Marvin Karos et al	:
Serial No.: 10/488,197	: STATUS LETTER
Filed: March 1, 2004	:
Attorney Docket No.:	:

This is in response to the request, filed February 25, 2005, to withdraw from representation in the above identified application.

Insofar as can be determined the above identified attorney and those listed on the attached request has never been appointed to represent the above identified applicants in this application. Therefor no withdrawal can be effected.

The request to withdraw is **DISMISSED**.

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, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

cc:

JAESCHKE,WAYNE
MORRISON AND FOERSTER LLP
1650 TYSONS BLVD STE 300
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/488,200	08/25/2004	Mitsuhiro Koseki	402988/SOGA	1713

7590 10/30/2007
LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER
KRAUSE, JUSTIN MITCHELL

ART UNIT	PAPER NUMBER
3682	

MAIL DATE	DELIVERY MODE
10/30/2007	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be 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 dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☒ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tammy A. Kaarten

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

19 AUG 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of	:	
Eddison	:	
Application No. 10/488,216	:	DECISION ON
PCT No.: PCT/GB02/02575	:	
Int. Filing Date: 05 June 2002	:	PETITION UNDER
Priority Date: 05 June 2001	:	
Atty. Docket No.: 031749/275011	:	37 CFR 1.137(b)
For: Drilling Apparatus	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 01 March 2004.

BACKGROUND

This international application was filed on 05 June 2002, claimed an earliest priority date of 05 June 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 December 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 05 December 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 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 and a surcharge under 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 15 2005

MORRISON & FOERSTER
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102-3915

In re Application of	:
Karl-Heinz Kogel et al	:
Serial No.: 10/488,222	: STATUS LETTER
Filed: March 2, 2004	:
Attorney Docket No.: 532622006300	:

This is in response to an attorney's request, filed February 23, 2005, to withdraw from representation in the above identified application.

Insofar as can be determined the signing attorney listed on the request, Wayne Jaeschke, (copy attached) has never been appointed to represent the above identified applicants in this application. The only attorney appointed is James Remenick. Therefor no withdrawal can be effected.

The request to withdraw is **DISMISSED**.

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, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number, 571-273-8300.

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

PCT

DT02 Rec'd PCT/PTO 23 FEB 2005

OIPE JC103 FEB 23 2005 PATENT & TRADEMARK OFFICE

PTO/SB/83 (05-03)
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

Application Number	10/488,222
Filing Date	March 2, 2004
First Named Inventor	Karl-Heinz Kogel
Art Unit	Not yet assigned
Examiner Name	Not yet assigned
Attorney Docket Number	532622006300

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

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **BASF Plant Science GmbH**

NOT Approved
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

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

CORRESPONDENCE ADDRESS

[ ] Customer Number [ ] → [ ]

OR

[X] Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

[X] This request is made on behalf of myself and
- [ ] all the attorneys/agents of record,
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [X] the attorneys/agents associated with Customer Number 25227

This request is enclosed in **triplicate** (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	February 23, 2005

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.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: February 23, 2005 Signature: _____ (Chimin Taylor)

va-94562

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

Judy Jarecki-Black
3rd Floor
Merial, LTD, 3239 Satellite Blvd.
Duluth, GA 30096

Mail Date: 04/21/2010

Applicant	: Hans Tobler	: DECISION ON REQUEST FOR
Patent Number	: 7605134	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/488,225	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1004** 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.

Rec'd PCT/PTO 05 JAN 2005

#4

Attorney Docket No.: 249173US2X PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:	:
Samuel BOUTIN, et al.	: EXAMINER:
SERIAL NO: 10/488,242	:
FILED: March 10, 2004	: GROUP ART UNIT:
FOR: METHOD FOR ORGANIZING AND EXECUTING A PLURALITY OF SERVICES, IN PARTICULAR ON BOARD A MOTOR VEHICLE	:

PETITION UNDER 37 C.F.R. 1.47(a)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants herein petition for the entry of the declaration under 37 C.F.R. §1.63 filed concurrently herewith, despite the fact that one of the inventor, Mr. Azim PANDAY, did not execute the declaration.

The present application contains a non-signing inventor, who cannot be found or reached after diligent effort, and the Applicants respectfully petition the Office to allow the signing inventors to prosecute this application on behalf of themselves and the non-signing inventor. In support of this petition, the Applicants submit herewith (1) a Declaration under 37 C.F.R. §1.63 signed by inventors Samuel BOUTIN and Hugo CHALE GONGORA, (2) a Declaration showing proof of the pertinent facts and the last known address of the non-signing

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02 FC:1464 130.00 OP

RECEIVED

inventor (37 C.F.R. §1.47(a)), and (3) the fee set forth in 37 C.F.R. §1.17(g). Accordingly, the Applicant respectfully requests that this Petition be granted.

As required by 37 C.F.R. §1.47(a), a fact declaration is being submitted herewith that includes proof of the pertinent facts. In particular, according to the declaration of Owen Davies, a letter was prepared and was mailed to Mr. PANDAY by registered mail to Mr. PANDAY's last known address on October 6, 2004, with a copy of the application and a declaration, requesting that Mr. PANDAY execute the inventor declaration and return the documents. The letter was returned marked as being unclaimed and to return to sender. Additional telephone directory and internet searches have been conducted, but Mr. PANDAY has not been located after diligent search efforts. The letters were sent to Mr. PANDAY at his last known address, which is set forth in paragraph 7 of the Owen Davies declaration, and which is:

Mr. AZIM PANDAY
20 avenue du Maine
75015 PARIS, FRANCE

The required fee under 37 C.F.R. §1.17(g) is attached.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier
Registration No. 25,599
Attorney of Record

Christopher D. Ward
Registration No. 41,367

Customer Number
22850
Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 10/01)

GJM:CDW:brf
I:\atty\cdw\249173US2XPCT\Pet - Non-signing Inventor.doc

Attorney Docket No.: 249173US2X PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:	:
Samuel BOUTIN, et al.	: EXAMINER:
SERIAL NO: 10/488,242	:
FILED: March 10, 2004	: GROUP ART UNIT:
FOR: METHOD FOR ORGANIZING AND EXECUTING A PLURALITY OF SERVICES, IN PARTICULAR ON BOARD A MOTOR VEHICLE	:

DECLARATION UNDER 37 CFR 1.47(a)

The undersigned, Owen Davies, herein declares as follows:

1. That I am an employee of RENAULT, a French corporation.

2. That Azim PANDAY has not signed the declaration.

3. That a letter was prepared and mailed to Azim PANDAY (see the attached letter dated June 14, 2004) under my instruction requesting that he execute the declaration attached thereto.

4. That the letter dated June 14, 2004, was sent via registered mail and was returned indicating that Mr. PANDAY does not live at that address and to return to sender.

5. That I prepared and mailed to Azim PANDAY the attached letter dated October 6, 2004, requesting that he execute the declaration with the application attached thereto.

6. That the letter dated October 6, 2004, was sent via registered mail and was returned indicating that the letter was unclaimed, and to return to sender.

BEST AVAILABLE COPY

Application Serial No.: 10/488,242
Samuel BOUTIN, et al.

7. That the letters referred to in paragraphs 3-6 were sent to Mr. PANDAY's last known address, which is:

Mr. AZIM PANDAY
20 avenue du Maine
75015 PARIS, FRANCE

8. That I have conducted a search of telephone directories for Mr. PANDAY, and that this search did not result in the finding of Mr. PANDAY.

9. That I have conducted a search of internet directories for Mr. PANDAY, and that this search did not result in the finding of Mr. PANDAY.

10. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Owen Davies

Owen Davies

Signature

5 January 05

Date

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RENAULT

Département Propriété Intellectuelle
Contrats Industriels et Licences

Monsieur PANDAY Azim
20 avenue du Maine
75015 PARIS

Le 14 Juin 2004

OD/NS - Sce 0267
01.34.95.13.91

Monsieur,

Nous avons effectué une extension aux Etats-Unis concernant la demande de brevet N° 01-11794 pour "method for organizing and executing a plurality of services, in particular on board a motor vehicle".

Afin de régulariser cette demande, nous vous serions reconnaissants de bien vouloir signer l'assignment et la déclaration, et de nous retourner ces documents le plus rapidement possible à l'adresse suivante : RENAULT TECHNOCENTRE - Sce 0267 TCR GRA 155 - 1 avenue du Golf - 78288 GUYANCOURT (France)

Avec nos remerciements, je vous prie d'agréer, Monsieur, l'expression de nos salutations distinguées.

Nicole SUDJA

P.J. : Assignment + déclaration

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Direction Juridique
Département 00267 - Adresse : TCR GRA 1 55 - 1 avenue du Golf - 78288 Guyancourt Cedex
Tél. : +33 (0)1 34 95 38 96 - Fax : +33 (0)1 34 95 82 12
RENAULT s.a.s. Société par actions simplifiée au capital de 533 941 113 euros - Siège social : 13-15 quai Alphonse Le Gallo - 92513 Boulogne Billancourt Cedex
R.C.S. Nanterre B 780 129 987 - Siret : 780129987 03591 - APE 341 Z

June 14, 2004

Dear Sir,

We have arranged for an extension in the United States regarding the Patent Application Number 01-11794 entitled "method for organizing and executing a plurality of services, in particular on board a motor vehicle".

In order to complete this application, we would be grateful if you could sign the assignment and declaration and return these documents as soon as possible to the following address:

RENAULT TECHNOCENTRE
Sce 0267 TCR GRA 155
1 avenue du Golf
78288 GUYANCOURT
France

Thank you very much and best regards,

Nicole SUDJA

Enclosures: Assignment
Declaration

Nom SUDJA

Cdf : PANDAY Azim

N° téléphone: 51391

Site : TCR ... 155

CLASSY LES MOULINEAUX
HTS DE SEINE

€ R.F.
0491
LA POSTE
BH 00200

RENAULT

2109 Boulogne Billancourt Cedex

RECOMMANDÉ
AVEC A.R.

A L'ENVOYEUR

PANDAY Azim

20, avenue du Maine

75015 - PARIS

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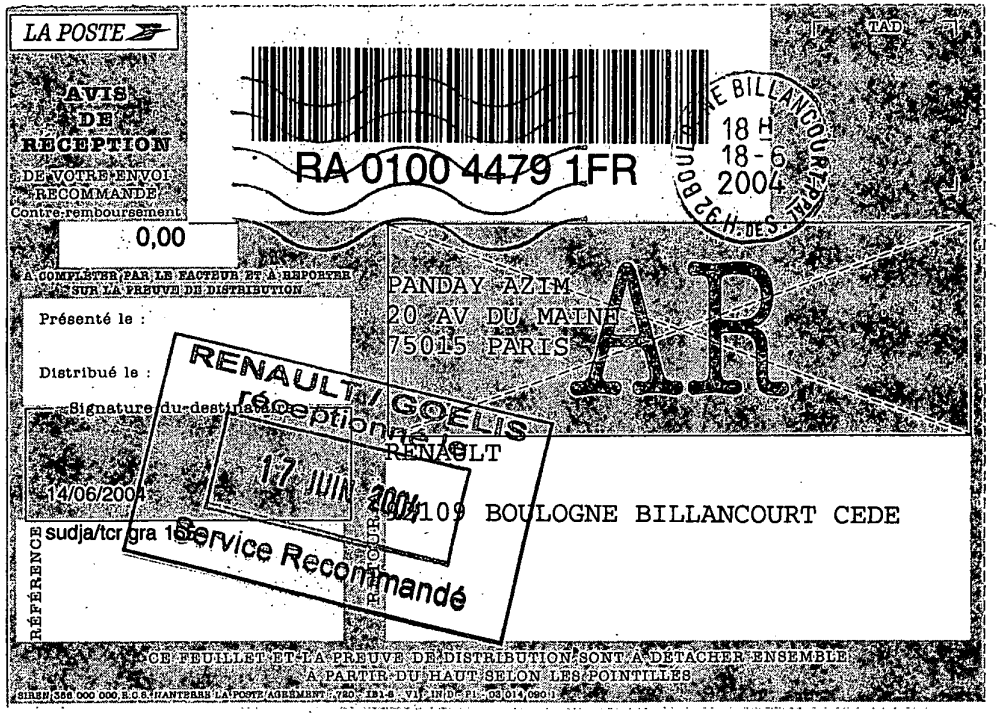
Registered mail receipt showing delivery attempted.



LA POSTE

AVIS DE RÉCEPTION

DE VOTRE ENVOI RECOMMANDÉ

Contre-remboursement

0,00

A COMPLÉTER PAR LE FACTEUR ET À REPORTER SUR LA PREUVE DE DISTRIBUTION

Présenté le :

Distribué le :

Signature du destinataire

14/06/2004

RÉFÉRENCE sudja/tcr gra 1

RA 0100 4479 1FR

TAD

BILLANCOURT PPL 18 H 18-6 2004 H.DES.

PANDAY AZIM
20 AV DU MAINE
75015 PARIS

AR

RENAULT / GOELIS
réceptionné le
17 JUIN 2004
Service Recommandé

RENAULT
92109 BOULOGNE BILLANCOURT CEDE

CE FEUILLET ET LA PREUVE DE DISTRIBUTION SONT À DÉTACHER ENSEMBLE À PARTIR DU HAUT SELON LES POINTILLÉS

SIREN 356 000 000 R.C.S. NANTERRE LA POSTE AGRÉMENT 720 181-6 VI IN D PL 03 014 090 1

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RENAULT

Département Propriété Intellectuelle
Contrats Industriels et Licences

Monsieur PANDAY Azim
20 avenue du Maine
75015 PARIS

Le 6 Octobre 2004

OD/NS - Sce 0267
01.34.95.13.91

Monsieur,

Nous avons effectué une extension aux Etats-Unis concernant la demande de brevet N° 01-11794 pour "method for organizing and executing a plurality of services, in particular on board a motor vehicle".

Afin de régulariser cette demande, nous vous serions reconnaissants de bien vouloir signer l'assignment et la déclaration, et de nous retourner ces documents le plus rapidement possible à l'adresse suivante : RENAULT TECHNOCENTRE - Sce 0267 TCR GRA 155 - 1 avenue du Golf - 78288 GUYANCOURT (France)

Avec nos remerciements, je vous prie d'agréer, Monsieur, l'expression de nos salutations distinguées.

Owen Davies

Owen DAVIES

P.J. : Assignment + déclaration + Texte de la demande US 10/488,242

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Direction Juridique
Département 00267 - Adresse : TCR GRA 1 55 - 1 avenue du Golf - 78288 Guyancourt Cedex
Tél. : +33 (0)1 34 95 38 96 - Fax : +33 (0)1 34 95 82 12
RENAULT s.a.s. Société par actions simplifiée au capital de 533 941 113 euros - Siège social : 13-15 quai Alphonse Le Gallo - 92513 Boulogne Billancourt Cedex

October 6, 2004

Dear Sir,

We have arranged for an extension in the United States regarding the Patent Application Number 01-11794 entitled "method for organizing and executing a plurality of services, in particular on board a motor vehicle".

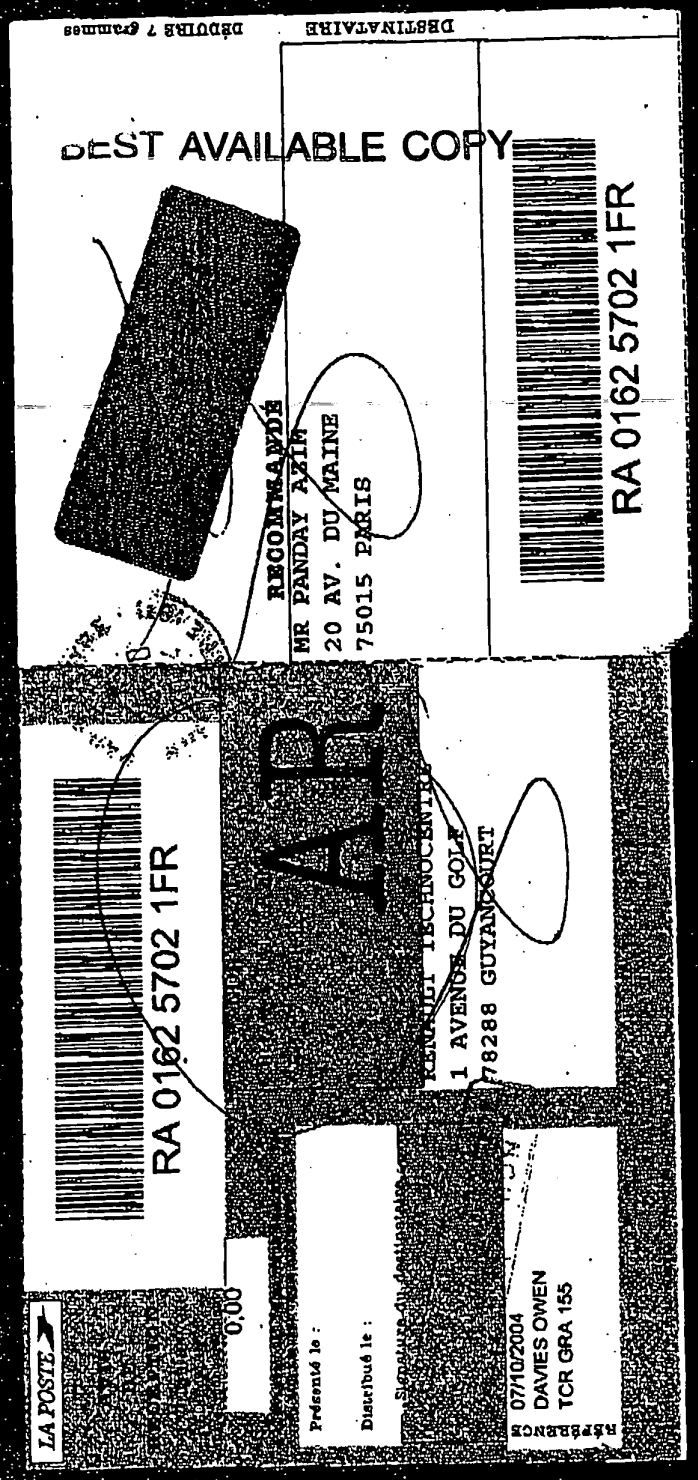
In order to complete this application, we would be grateful if you could sign the assignment and declaration and return these documents as soon as possible to the following address:

RENAULT TECHNOCENTRE
Sce 0267 TCR GRA 155
1 avenue du Golf
78288 GUYANCOURT
France

Thank you very much and best regards,

Owen Davies

Enclosures: Assignment
Declaration
Specification



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08 FEB 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oblon, Spivak, McClelland, Maier & Neustadt
1940 Duke Street
Alexandria, Virginia 22314

In re Application of
BOUTIN et al.
U.S. Application No. 10/488,242
PCT No.: PCT/FR02/03119
Int. Filing Date: 12 September 2002
Priority Date: 12 September 2001
Attorney Docket No.: 249173US2XPCT
For: METHOD FOR ORGANIZING AND EXECUTING A PLURALITY OF SERVICES, IN PARTICULAR ON BOARD A MOTOR VEHICLE

DECISION ON PETITION

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 05 January 2005, to accept the application without the signature of joint-inventor, Azim Panday. The $200 petition fee will be charged to Deposit Account no. 15-0030.

BACKGROUND

On 12 September 2002, applicants filed international application PCT/FR02/03119 which claimed a priority date of 12 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 March 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 12 March 2004.

On 10 March 2004, 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 05 August 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 05 January 2005, applicants filed the present petition under 37 CFR 1.47(a) and a two-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 Azim Panday 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, Azim Panday. The Declaration of Owen Davies states that "on 14 June 2004 and 06 October 2004 letters were mailed to Azim Panday, to his last known address, via registered mail. The letters were returned to sender." It is noted that multiple mailings to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the inventor. Additionally, Mr. Davies states that "he conducted a search of telephone (and internet) directories for Mr. Panday, and that this search did not result in the finding of Mr. Panday." However, Mr. Owens failed to provide documentary evidence to support the telephone/internet searches. As stated above, copies of documentary evidence such as internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., should be supplied.

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

U.S. Application No. 10/488,242

CONCLUSION

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

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

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

Anthony Smith

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

08 SEP 2005

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

Oblon, Spivak, McClelland, Maier & Neustadt
1940 Duke Street
Alexandria, Virginia 22314

In re Application of
BOUTIN et al.
U.S. Application No. 10/488,242
PCT No.: PCT/FR02/03119
Int. Filing Date: 12 September 2002
Priority Date: 12 September 2001
Attorney Docket No.: 249173US2XPCT
For: METHOD FOR ORGANIZING AND EXECUTING A PLURALITY OF SERVICES, IN PARTICULAR ON BOARD A MOTOR VEHICLE

DECISION ON PETITION

This decision is in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 08 June 2005. In a decision dated 08 February 2005, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Azim Panday, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 08 June 2005 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Azim Panday. The declaration filed 08 June 2005 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 12 September 2002 under 35 U.S.C. 363 and a date of **08 June 2005** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

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

Anthony Smith

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Fax: (571) 273-0459

18 MAY 2006

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7055
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
SAITO *et al*	:	
Application No.: 10/488,245	:	
PCT No.: PCT/JP2003/006235	:	
Int. Filing Date: 19 May 2003	:	**DECISION**
Priority Date: 22 May 2002	:	
Attorney Docket No.: P25027	:	
For: WELDING METHOD AND	:	
STRUCTURE JOINED USING THE	:	
SAME	:	

Applicants' "Request for Correction of Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 C.F.R. 1.495" filed on 26 June 2005 is treated as a petition under 37 CFR 1.181 and hereby **DISMISSED**.

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed 26 November 2004 recorded a date of completion of all 35 U.S.C. 371 requirements of 22 November 2004.

This date is correct.

The "Date of Completion of all 35 U.S.C. 371 Requirements" is the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(f) if requested prior to 30 months from the priority date. *See* MPEP § 1893.03(b).

A review of the subject application shows the thirty-month date from the earliest priority date was 22 November 2004 and applicant did not request early processing.

This application is being forwarded to Art Unit 1725 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

COPY MAILED

FEB 03 2006

OFFICE OF PETITIONS

In re Application of :
Eiji Satou et al :
Application No. 10/488,253 : DECISION GRANTING PETITION
Filed: March 11, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 250279US0PCT :

This is a decision on the petition, filed February 2, 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 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

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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).*

23 SEP 2004

#2

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

In re Application of RICCI, Giovanni et al. Application No.: 10/488,260 PCT No.: PCT/EP02/09672 Int. Filing Date: 27 August 2002 Priority Date: 12 September 2001 Attorney's Docket No.: 250375US0XPCT For: RANDOM BUTADIENE-ISOPRENE COPOLYMERS WITH A TRANS-1, 4 STRUCTURE	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Response to Notice of Missing Requirements Under 35 U.S.C. 371," filed in the United States Patent and Trademark Office on 25 August 2004. The declaration contains an indication that joint inventor Roberto Santi is deceased. As such, it has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 27 August 2002, applicants filed international application PCT/EP02/09672, which claimed a priority date of 12 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 March 2003. The deadline for entry into the national stage in the United States was 12 March 2004.

On 12 March 2004, 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 July 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) was required.

On 25 August 2004, applicants submitted "Response to Notice 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. However, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir), if under applicable law, the heirs' authority corresponds to that of a legal representative. See MPEP 409.01(d).

The declaration is signed by heirs. However, it is not stated that they are all of the heirs of Roberto Santi. This leaves open the possibility of additional heirs who have not signed. Further, the submission of a declaration by the heirs is construed to indicate that a legal representative has not been appointed, nor is one required to be appointed and that the heirs are acting as the legal representatives of the estate. If this is not the case, applicants must submit a declaration executed by the legal representative.

The declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration appears to list the information for the applicant/inventors and for the heirs, but does not list the information for the deceased inventor Roberto Santi.

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 and PCT Legal Administration's facsimile number will be (571) 273-0459.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

19 MAY 2005

A-9

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In re Application of	:	
RICCI, Giovanni et al.	:	
Application No.: 10/488,260	:	
PCT No.: PCT/EP02/09672	:	DECISION ON
Int. Filing Date: 27 August 2002	:	
Priority Date: 12 September 2001	:	REQUEST
Attorney's Docket No.: 250375US0XPCT	:	
For: RANDOM BUTADIENE-ISOPRENE	:	UNDER 37 CFR 1.42
COPOLYMERS WITH A TRANS-1, 4	:	
STRUCTURE	:	

This is a decision on applicants' "Filing of Declaration Under 37 CFR 1.53(F)," filed in the United States Patent and Trademark Office on 23 November 2004.

BACKGROUND

On 27 August 2002, applicants filed international application PCT/EP02/09672, which claimed a priority date of 12 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 March 2003. The deadline for entry into the national stage in the United States was 12 March 2004.

On 12 March 2004, 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 July 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) was required.

On 25 August 2004, applicants submitted "Response to Notice of Missing Requirements Under 35 U.S.C. 371" accompanied by a declaration.

On 23 September 2004, the Office mailed "Decision On Request Under 37 CFR 1.42," refusing applicants' request.

On 23 November 2004, applicants made the instant renewed request.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42. As "the terms 'Executor' and 'Administrator' do not have exact counterparts in all foreign countries, ... those terms must be construed to

fit the circumstances of the case." MPEP 409.01(d). Thus, "the person or persons having authority corresponding to that of executor or administrator are permitted to make application..." MPEP 409.01(d).

The declaration is executed by the heirs of Roberto Santi. Applicants state that the heirs executing the declaration are all of the heirs of Mr. Santi. The submission of the declaration signed by the heirs is construed as an indication that a legal representative has not been appointed nor is one required to be appointed by applicable law, and thus, the heirs are signing as the legal representative of the estate. See MPEP 409.01(d). If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to the decision. The new declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

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

The application has a date of 23 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 M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

08 APR 2005

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#5

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Hissashi D. Watanabe
Motorola, Inc.
Intellectual Property AS437
600 N. U.S. Highway 45
Libertyville, Illinois 60048

In re Application of	:
DELOOUME, Pascal *et al.*	:
US Application No.: 10/488,261	:
PCT Application No.: PCT/EP02/09481	:
Int. Filing Date: 26 August 2002	: DECISION ON REQUEST
Priority Date: 30 August 2001	: FOR WITHDRAWAL
Attorney's File Reference: CE50049P	: OF ABANDONMENT
For: METHOD OF VERIFYING	:
DOWNLOADED SOFTWARE AND	:
CORRESPONDING DEVICE	:

This decision is in response to applicant's "Petition To Withdraw Holding of Abandonment" filed on 26 February 2004 which is being properly treated as s Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment.

BACKGROUND

On 26 August 2002, applicants filed international application no. PCT/EP02/09481 claiming a priority date of 30 August 2001 and designating the United States. The application was communicated by the International Bureau to the USPTO on 13 March 2003. A demand for International Preliminary Examination in which the United States was elected was filed 24 March 2003. According, the deadline for entry into the United States National Stage was thirty months from the priority date, that is 30 February 2004.

On 25 February 2004, 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 oath or declaration as required by 35 U.S.C. 371 (c) (4) was not filed.

On 26 May 2004, a Notice to File Missing Requirements (Form PCT/DO/EO/905) was mailed to Applicants, notifying applicants that in order to complete the requirements for acceptance under 35 U.S.C. 371, an oath or declaration of the inventors that is in compliance with 37 CFR 1.497(a) and (b) must be furnished along with a $130 surcharge for providing the oath or declaration later than 30 months from the priority date.

According to the signed petition addressed herein, on 17 August 2004, Applicants sent by facsimile transmission (to the Central Fax Number of USPTO, 703/872-9306) the Transmittal Form, Fee Transmittal, Petition for Extension of Time (one month), Response to Notification of

Missing Parts of Application (which is being treated as a Response to Missing Requirements), and a Declaration and Power of Attorney. In addition to the statements of the petition, applicants have provided their own copy of a message conformation provided at the time of transmission as well as a USPTO automatically generated return receipt indicating the materials described above were originally sent by facsimile transmission to the USPTO on 17 August 2004.

On 12 January 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements.

On 11 February 2005, applicants filed the present petition.

DISCUSSION

Petitioner requests that the Notification of Abandonment be withdrawn because applicants submitted a timely response to the Notification of Missing Requirements mailed on 26 May 2004. Applicants have submitted, *inter alia*, copies of the Transmittal Form, Fee Transmittal, Petition for Extension of Time (one month), Response to Notification of Missing Requirements, Assignment and Recordation Sheet, Declaration and Power of Attorney, and an itemized facsimile transmission return receipt listing the aforementioned items. The receipt is stamped with an electronic receipt stamp dated 17 August 2004 that is furthermore supported by the statements set forth in the signed petition addressed here. The electronic records of the USPTO indicate that payment of the surcharge under 37 CFR 1.492 (e) was received on 17 August 2004. In view of this evidence, it is concluded that the aforementioned items were received on 17 August 2004. Accordingly, applicants completed all the requirements under 35 U.S.C. 371 for entry into the United States on 17 August 2004.

Counsel's Deposit Account No. 50-2117 will be charged $110 for the fee for a one-month extension of time and $130 for the surcharge for providing the declaration later than 30 months from the priority date.

CONCLUSION

For the above reasons, it would be appropriate to conclude that applicant timely replied to the Notification of Missing Requirements mailed on 17 August 2004; therefore, the Notification of Abandonment mailed 09 November 2004 is hereby **VACATED.**

DECISION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED.**

Applicant's claim for priority is acknowledged. The application has an international filing date of 26 August 2002 under 35 U.S.C. 363 and a date of 17 August 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 processing

Craig Thompson
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK NY 10150-5257

In re Application of	:	
Thomas Ruhland et al	:	
Application No. 10/488,280	:	ON PETITION
Filed: June 15, 2004	:	
Attorney Docket No. 05432/0200913-USO	:	

This is a decision on the petition, filed September 18, 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 September 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1624 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).

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of Peterson et al. :
Application No. 10/488,292 :
Filing Date: March 1, 2004 :
Attorney Docket No. 00786/406002 :

On Application For
Patent Term Adjustment

This is in response to the "Application for Correction of Patent Term Adjustment Under 37 C.F.R. § 1.705" filed September 30, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is eight hundred seventy (870) days, not one hundred sixty-four (164) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 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, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[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.

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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

Applicant: Peterson et. al.	:	DECISION ON REQUEST FOR
Patent Number: Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 10/488,292	:	WYETH
Filed: 1/27/2005	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Applicant should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

17 AUG 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, Virginia 22314

In re Application of:	:	
BOUCARD, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/488,294	:	REVIVE ABANDONED
PCT No.: PCT/FR02/02437	:	APPLICATION UNDER 37
International Filing Date: 11 July 2002	:	CFR 1.137(b)
Priority Date: 12 July 2001	:	
Attorney's Docket No.: 249512US41XPCT	:	
For: METHOD OF LOCALLY REPAIRING PARTS	:	
LOCATED UNDER A THERMAL BARRIER	:	

The petition to revive under 37 CFR 1.137(b) filed 02 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that applicant's 02 March 2004 submission included a translation of the international application into English and an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 15-0030 will be charged the $130 processing fee for filing the translation later than thirty months after the priority date and $130 as the surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 02 March 2004.

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

05 AUG 2004

#3

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OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, PC
1940 Duke Street
Alexandria, VA 22314

In re Application of :
BOUCARD, Bruno, Gilles, Francois et al :
U.S. Application No.: 10/488,295 :
PCT No.: PCT/FR02/02436 :
Int. Filing Date: 11 July 2002 :
Priority Date: 12 July 2001 :
Attorney Docket No.: 249509US41XPCT :
For: METHOD OF GLOBALLY REPAIRING :
A PART COVERED WITH A THERMAL :
BARRIER :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition to Revive Under 37 C.F.R. 1.137(b)" filed with the national stage papers on 02 March 2004 is hereby **GRANTED** as follows:

The appropriate petition fee of $1,330.00 has been paid. 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 1.137(a) and (b) was submitted with the national stage papers. The surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) has been charged to Deposit Account No. 15-0030 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 July 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 March 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

20 SEP 2004

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1940 Duke Street
Alexandria, VA 22314

In re Application of
BOUCARD, Bruno, Gilles, Francois
U.S. Application No.: 10/488,295
PCT No.: PCT/FR02/02436
Int. Filing Date: 11 July 2002
Priority Date: 12 July 2001
Attorney Docket No.: 249509US41XPCT
For: METHOD OF GLOBALLY REPAIRING A PART COVERED WITH A THERMAL BARRIER

DECISION ON REQUEST FOR REFUND

This decision is in response to the papers filed 17 September 2004 requesting a refund of $40.00 in additional basic national fee charges for "serial number 10/488,295."

Applicant's request for refund is refused for the following reason.

> **The international application for U.S. application No. 10/488,295 is PCT/FR02/02436, not PCT/US01/44702. In addition, the Deposit Account data submitted with the instant request for refund did not list the disputed charge.**

It is noted that the national stage of PCT/US01/44702 is U.S. application No. 10/497,852.

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

06 DEC 2004

#8

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

In re Application of HASSLER et al. Application No.: 10/488,313 PCT No.: PCT/EP02/09519 Int. Filing Date: 28 August 2002 Priority Date: 27 August 2001 Attorney's Docket No.: SCHO0167 For: DEVICE AND METHOD FOR EVALUATING A CHARACTERISTIC OF AN OBJECT	DECISION ON PETITION UNDER 37 CFR 1.182

This is in response to applicant's "Petition to Convert" an application under 35 U.S.C. 371 to an application under 35 U.S.C. 111(a) filed in the United States Patent and Trademark Office (USPTO) on 27 February 2004, treated as a petition under 37 CFR 1.182. Applicant requests that the above referenced application be converted from a national application filed under 35 U.S.C. 371 to an application filed under U.S.C. 111(a). A $130.00 petition fee has been paid.

BACKGROUND

On 26 August 2002, applicant filed international application PCT/EP02/09519, which claimed priority of an earlier German application filed 27 August 2001. A Demand was filed on 25 March 2003 and accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2004.

On 27 February 2004, applicant filed a transmittal letter requesting filing under 35 U.S.C. 371 in the United States which was accompanied by, *inter alia*, the basic national fee of $920.

On 17 September 2004, applicants filed a response to the 20 July 2004 Notification of Missing Requirements, including an executed declaration and the instant petition to convert. Petitioner requests that the national stage application, mistakenly filed under 35 U.S.C. 371, be converted to an application filed under 35 U.S.C. 111(a), 37 CFR 1.53 35 U.S.C. 365(c) and 35 U.S.C. 120.

DISCUSSION

Applicant submitted U.S. national application papers including an amended specification indicating the following : "This application is a continuation of copending International Application No. PCT/EP02/09519 filed August 26, 2002, which designated the United States and was not published in English."

As explained at Section 1893.03(a) of the Manual of Patent Examining Procedure (MPEP), any intended filing of an international application as a national stage application must

clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The Transmittal Letter (Form PTO-1390) filed on 27 February 2004 identified the application as "a filing under 35 U.S.C. 371." The specification, filed on the same date, in the first line identifies the papers as a "continuation of co-pending international application No. PCT/EP02/09519". The Transmittal Letter (Form-1390) used by applicant is to be used only with submissions under 35 U.S.C. 371. The Office provides the TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371 (FORM PTO-1390) so that applicants can comply with 37 CFR 1.495(g) and so that the Office's personnel can readily distinguish between submissions under 35 U.S.C. 371 and 35 U.S.C. 111(a). Applicants submitted the papers with the Transmittal Letter indicating that applicants were filing under 35 U.S.C. 371. The filing of the PTO-1390 is viewed by office personnel as a clear indication of papers submitted under 35 U.S.C. 371.

Nevertheless, applicants' reference to the papers as a continuation application in the specification is inconsistent with the Transmittal Letter filed 27 February 2004 and contradicts the request in the Transmittal Letter to file under 35 U.S.C. 371. A national application which requests treatment as a continuation of an earlier international application cannot be considered the national stage application of that international application, and under the present circumstances, the statement in the specification is an indication of papers filed under 35 U.S.C. 111(a).

In view of the above, it is proper to grant applicants' petition to treat the initial filing as a filing under 35 U.S.C. 111(a). The declaration filed on 17 September 2004 and the specification filed on 27 February 2004 met the requirements for granting a filing date for a filing under 35 U.S.C. 111(a). Accordingly, the petition to accept the papers as a filing under 35 U.S.C. 111(a) with an filing date of 27 February 2004 is **GRANTED**. The Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 20 July 2004 is **VACATED**.

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 (Serial No. 10/488,313) and the international application (PCT/EP02/009519) designating the United States were copending on 27 February 2004.

CONCLUSION

The petition under 37 CFR 1.182 to consider the papers filed on 27 February 2004 as a U.S. application filed under 35 U.S.C. 111(a) is **GRANTED**.

This application is being forwarded to the International Division for removal of the papers communicated from the International Bureau to the United States of America. The application will then be forwarded to Office of Initial Patent Examination (OIPE) for processing as a regular national application under 35 U.S.C. 111(a) with a filing date of **27 February 2004.**

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

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/488,313	02/27/2004	Ulf Hassler	SCHO0167

CONFIRMATION NO.

OC000000014790888

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

Date Mailed: 12/17/2004

DECISION GRANTING REQUEST TO CONVERT TO NON-PROVISIONAL

This is a decision on the request under 37 CFR 1.53(c)(3) received in the U.S. Patent and Trademark Office on **09/17/2004,** to convert the above-identified application to a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

The request is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application number is **10/488,313.** The filing receipt for the non-provisional application number will be mailed to the applicant by OIPE in due course.

DONNA S GREENE
Office of Initial Patent Examination
(703) 308-0910

PART 2 - OFFICE COPY

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MAILED
APR 29 2010
OFFICE OF PETITIONS

DR. MARK M. FRIEDMAN
C/O BILL POLKINGHORN - DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO MD 20772

In re Application of :
Bruckheimer, et al. :
Application No. 10/488,319 : ON PETITION
Filed: March 2, 2004 :
Attorney Docket No. 1934/26

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed November 19, 2009.

The petition is **granted**.

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed July 16, 2009, which set a statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on October 17, 2009. A Notice of Abandonment was sent on November 2, 2009.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> 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.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being directed to the Office Data Management for further processing that will include re-mailing the Notice of Allowance and Issue Fee Due and resetting of the period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAY 25 2010

OFFICE OF PETITIONS

JAYADEEP R. DESHMUKH
458 CHERRY HILL ROAD
PRINCETON NJ 08540

In re Application of	:	
Vittorio DE NORA	:	
Application No. 10/488,359	:	DECISION ON PETITION
Filed: March 9, 2005	:	
Attorney Docket No. MOL0650	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; 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 1795 for appropriate action by the Examiner in the normal course of business.

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

31 JUL 2006

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Peter Zawilski
Philips Electronic North America Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S-41SJ
SAN JOSE, CA 95131

In re Application of	:	
SOLO DE ZALDIVAR	:	DECISION ON PETITION
Application No.: 10/488,377	:	
PCT No.: PCT/IB02/03529	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 26 August 2002	:	
Priority Date: 28 August 2001	:	
Atty. Docket No.: CH01 0019US	:	
For: NON-VOLITALE SEMICONDUCTOR	:	
MEMORY	:	

The petition to revive under 37 CFR 1.137(b) filed 19 July 2006 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 an executed declaration of the inventor and payment of the appropriate surcharge. 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.

The application has an international filing date of 26 August 2002 under 35 U.S.C. 363 and will be given a date of **19 July 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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FEB 16 2010

OFFICE OF PETITIONS

RATNER PRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Application of	:	
Heinz Walter Joseph	:	DECISION ON PETITION
Application No. 10/488,411	:	TO WITHDRAW
Filed: July 9, 2004	:	FROM RECORD
Attorney Docket No. SSM-527US	:	

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 9, 2009.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioner was not appointed via Customer Number. Therefore, any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed.

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.*

As there no change of Correspondence address was indicated, the request cannot be granted. All future communications from the Office will continue to be directed to the above-listed address until properly notified.

There is an outstanding Office action mailed December 7, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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VALLEY FORGE PA 19482

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OFFICE OF PETITIONS

In re Application of	:	
Heinz Walter Joseph	:	DECISION ON PETITION
Application No. 10/488,411	:	TO WITHDRAW
Filed: July 9, 2004	:	FROM RECORD
Attorney Docket No. SSM-527US	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 2010.

The request is **NOT APPROVED**.

The Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b). 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.*

The current request designates a law firm as the new correspondence address, therefore the request cannot be granted. All future communications from the Office will continue to be directed to the above-listed address until properly notified.

There is an outstanding Office action mailed December 7, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

28 JUL 2004

#3

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Mara E. Liepa
MERCHANT & GOULD
P.O. BOX 2903
Minneapolis, MN 55402-0903

In re Application of MCCLURKEN et al. US Application No.: 10/488,416 PCT Application No.: PCT/US02/28267 International Filing Date: 05 September 2002 Priority Date: 05 September 2001 Attorney's Docket No.: 13045.38USWO For: FLUID ASSISTED MEDICAL DEVICES, FLUID DELIVERY SYSTEMS AND CONTROLLERS FOR SUCH DEVICES, AND METHODS	:	DECISION ON PETITION UNDER 37 CFR 1.48(b)

This communication is in response to Applicants' petition under 37 CFR 1.48(b), filed 02 March 2004 with payment of $130.00 for the petition fee.

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28267, which claimed priority of an earlier U.S. application filed 05 September 2001. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2004.

On 05 March 2004, 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). The transmittal letter was also accompanied by an unexecuted declaration which listed only two of the six inventors identified by the published international application, and by the instant petition which requests removal of four of the inventors: David Lipson, Arnold E. Oyola, Roger D. Greeley, and Mark T. Charbonneau.

DISCUSSION

The present national stage application must first be executed by all the inventors. The

filing of a petition under 37 CFR 1.48(b) is not applicable prior to the application being executed by all the named inventors. Under 35 U.S.C. 363, an international application designating the United States has the effect of a national application for a patent regularly filed in the United States. In other words, the U.S. national stage application is considered to have been filed on the international filing date in the names of the inventors/applicants for the United States of America listed on the REQUEST form. See 37 CFR 1.41(a)(4). The REQUEST indicated Michael McClurken, David Lipson. Robert Luzzi, Arnold Oyola, Roger Greeley, and Mark Charbonneau as applicants/inventors for the United States of America.

Accordingly, the requirements under 35 U.S.C. 371(c)(4) must be met, namely that an oath or declaration of the inventors complying with the regulations for oaths and declarations of applications be filed. As set forth in 37 CFR 1.63, the oath or declaration must be executed by all the inventors.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.48(b) is DISMISSED. without prejudice.

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. If it is still appropriate to request a change of inventorship, applicant should resubmit this with the executed oath or declaration.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

DT07 Rec'd PCT/PTO 23 SEP 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	MCCLURKEN, et al.	Examiner:	Unknown
Serial No.:	10/488,416	Group Art Unit:	Unknown
Filed:	March 2, 2004	Docket:	13045.38USWO
Confirmation No.:	1155	Notice of Allow. Date:	n/a
Due Date:	November 9, 2004		
Title:	FLUID ASSISTED MEDICAL DEVICES, FLUID DELIVERY SYSTEMS AND CONTROLLERS FOR SUCH DEVICES AND METHODS		

CERTIFICATE UNDER 37 CFR 1.10:
"Express Mail" mailing label number: EV 408490204 US
Date of Deposit: September 23, 2004

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: _____
Name: David Ortiz

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

23552
PATENT TRADEMARK OFFICE

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Three Signed Combined Declaration and Power of Attorneys
- ☒ Check(s) in the amount of $130 for payment of the Missing Requirements Completion Fee
- ☒ Other: Notification of Missing Requirements, Communication Regarding Missing Requirements, Decision on Petition, Petition Under 37 CFR 1.48 (b)
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
612.332.5300

By: _____
Name: Mara E. Liepa
Reg. No.: 40,066
MEL/pjk

09/28/2004 GFREY1 00000099 10488416
01 FC:1617
130.00 OP

28 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mara E. Liepa MEL
MERCHANT & GOULD
P.O. BOX 2903
Minneapolis, MN 55402-0903

In re Application of MCCLURKEN et al. US Application No.: 10/488,416 PCT Application No.: PCT/US02/28267 International Filing Date: 05 September 2002 Priority Date: 05 September 2001 Attorney's Docket No.: 13045.38USWO For: FLUID ASSISTED MEDICAL DEVICES, FLUID DELIVERY SYSTEMS AND CONTROLLERS FOR SUCH DEVICES, AND METHODS	DECISION ON PETITION UNDER 37 CFR 1.48(b) Req for Reconsideration Sep 28, 2004

This communication is in response to Applicants' petition under 37 CFR 1.48(b), filed 02 March 2004 with payment of $130.00 for the petition fee.

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28267, which claimed priority of an earlier U.S. application filed 05 September 2001. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2004.

On 05 March 2004, 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). The transmittal letter was also accompanied by an unexecuted declaration which listed only two of the six inventors identified by the published international application, and by the instant petition which requests removal of four of the inventors: David Lipson, Arnold E. Oyola, Roger D. Greeley, and Mark T. Charbonneau.

DISCUSSION

The present national stage application must first be executed by all the inventors. The

BEST AVAILABLE COPY

filing of a petition under 37 CFR 1.48(b) is not applicable prior to the application being executed by all the named inventors. Under 35 U.S.C. 363, an international application designating the United States has the effect of a national application for a patent regularly filed in the United States. In other words, the U.S. national stage application is considered to have been filed on the international filing date in the names of the inventors/applicants for the United States of America listed on the REQUEST form. See 37 CFR 1.41(a)(4). The REQUEST indicated Michael McClurken, David Lipson. Robert Luzzi, Arnold Oyola, Roger Greeley, and Mark Charbonneau as applicants/inventors for the United States of America.

Accordingly, the requirements under 35 U.S.C. 371(c)(4) must be met, namely that an oath or declaration of the inventors complying with the regulations for oaths and declarations of applications be filed. As set forth in 37 CFR 1.63, the oath or declaration must be executed by all the inventors.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.48(b) is DISMISSED. without prejudice.

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. If it is still appropriate to request a change of inventorship, applicant should resubmit this with the executed oath or declaration.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

S/N 10/488,416 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	MCCLURKEN, et al.	Examiner:	Unknown
Serial No.:	10/488,416	Group Art Unit:	Unknown
Filed:	March 2, 2004	Docket No.:	13045.38USWO
Title:	FLUID ASSISTED MEDICAL DEVICES, FLUID DELIVERY SYSTEMS AND CONTROLLERS FOR SUCH DEVICES, AND METHODS		

CERTIFICATE UNDER 37 CFR 1.10:
"Express Mail" mailing label number: EV 408490204 US
Date of Deposit: September 23, 2004
I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
By: _____
Name: David Ortiz

PETITION UNDER 37 C.F.R. 1.48(b)

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

Dear Sir or Madam:

Claims 5-24 are being cancelled without prejudice or disclaimer in the preliminary amendment filed herewith.

Due to the cancellation of these claims, the contributions of the inventors listed below no longer are being claimed in this application:

David Lipson	Arnold E. Oyola
Roger D. Greeley	Mark T. Charbonneau

Therefore, it is requested that inventors Lipson, Oyola, Greeley and Charbonneau be deleted from this application. A petition fee of $130 was paid at the time of filing. It is assumed then no petition fee is required at this time. However, if such fee is deemed to be required, it should be charged to the undersigned's Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
(612)332.5300

Dated: September 23, 2004

By: Mara E. Liepa
Mara E. Liepa
Reg. No.: 40,066

MEL/pjk

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

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/488,416	Michael McClurken	13045.38USWO ✓

INTERNATIONAL APPLICATION NO.
PCT/US02/28267

I.A. FILING DATE	PRIORITY DATE
09/05/2002	09/05/2001

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MEL

miss req. 2 November 9, 2004
miss req. 3/PTA December 9, 2004 RR
miss req. STAT March 9, 2005 DV

CONFIRMATION NO. 1155
371 FORMALITIES LETTER

OC000000013755213

Date Mailed: 09/09/2004

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 03/02/2004
- Copy of the International Search Report filed on 03/02/2004
- Preliminary Amendments filed on 03/02/2004
- Request for Immediate Examination filed on 03/02/2004
- Copy of references cited in ISR filed on 03/02/2004
- U.S. Basic National Fees filed on 03/02/2004
- Priority Documents filed on 03/02/2004

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- 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.

- **$130** Surcharge for providing the oath or declaration later than 30 months from the priority date (37 CFR 1.492(e)) is required.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$130** for a Large Entity:

- **$130** Late oath or declaration Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

DEBORAH D WILLIAMS

Telephone: (703) 305-3744

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/488,416	PCT/US02/28267	13045.38USWO

FORM PCT/DO/EO/905 (371 Formalities Notice)

S/N 10/488,416 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	MCCLURKEN, et al.	Examiner:	Unknown
Serial No.:	10/488,416	Group Art Unit:	Unknown
Filed:	March 2, 2004	Docket No.:	13045.38USWO
Title:	FLUID ASSISTED MEDICAL DEVICES, FLUID DELIVERY SYSTEMS AND CONTROLLERS FOR SUCH DEVICES, AND METHODS		

CERTIFICATE UNDER 37 CFR 1.10:
"Express Mail" mailing label number: EV 408490204 US
Date of Deposit: September 23, 2004
I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
By:
Name: David Ortiz

COMMUNICATION REGARDING MISSING REQUIREMENTS

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

Dear Sir:

In connection with the above-identified application, enclosed please find three originally signed Combined Declaration and Power of Attorneys and a Petition Under 37 C.F.R. 1.48(b). Also enclosed is our check in the amount of $130 to cover the Missing Requirements completion fee.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Dated: September 23, 2004

By Mara E. Liepa
Mara E. Liepa
Reg. No. 40,066

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MEL/pjk

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

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In re Application of	:	
Euan Christopher Smith, et al.	:	
Application No.: 10/488, 419	:	ON PETITION
Filed: August 26, 2004	:	
Attorney Docket No.: 30740/40007	:	

This is a decision on the petition, filed November 13, 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 not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Andrew M. Lawrence 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.

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 20, 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 2892 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).

/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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG - 9 2007

MATHEWS, SHEPHERD, MCKAY & BRUNEAU, P.A.
29 THANET ROAD, SUITE 201
PRINCETON, NJ 08540

In re Application of	:
Cocking, Edward	:
Serial No.: 10/488,422	: PETITION DECISION
Filed: June 14, 2004	:
Attorney Docket No.: 4393-118 US	:

This is in response to the petition under 37 CFR 1.181, filed June 5, 2007, requesting the Director to reconsider the lack of unity requirement.

BACKGROUND

This application is a national stage filing under 35 USC 371 of PCT/GB02/03978 and, as such, is eligible for PCT unity of invention practice.

On October 10, 2006, the examiner mailed a lack of unity determination in which claims 49-73 were divided in 5 groups which lacked unity. The examiner reasoned that the groups lack the same or corresponding special technical feature.

On November 15, 2006, applicants responded by electing Group 1 (claims 49-55) with traverse. Applicants assert that the claims clearly are linked by a common inventive concept.

On February 21, 2007, the examiner mailed to applicants a first non-final Office action. The examiner maintains that the claims do not require inoculation per se and do not share a common inventive concept. The examiner made the requirement final.

On June 5, 2007, applicants filed this petition to request that the Office reconsider the lack of unity determination.

DISCUSSION

The petition and file history have been carefully considered.

PCT Rule 13.2 states that unity of invention is present when the groups share a technical feature that makes a contribution over the prior art.

In the non-final rejection mailed February 21, 2007, a rejection under 102 and 103 was presented. The newly presented claims 74-80, lack a special technical feature as illustrated by the 103 rejection of record.

Applicants argue that the withdrawn claims are clearly linked by a common inventive concept.

Claims 49-55 have been canceled and newly added claims 74-80 have been presented and are currently under examination.

The method for determining unity of invention under PCT Rule 13 shall be construed as permitting, in particular, an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product. In the instant application, Claim 56-59 is drawn to a process for using the elected plants.

Since there are outstanding prior art rejections which would apply to claims 74-80, claims 74-80 share fail to provide a special technical feature over the art and with the claims under examination.

Upon allowability of all claims directed to the elected product (plant) invention, reconsideration of the lack of unity requirement to include Claims 56-59 which are drawn to methods of using the claimed plant could be considered, per MPEP 821.04(b).

DECISION

The petition is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for further action consistent with this decision and for consideration of the papers filed 25 May 2007.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600
jb/jg

07 SEP 2004

#3

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

Nuvelo
Elena Quertermous
675 Almanor Avenue
Sunnyvale CA 94085

In re Application of TANG Application No.: 10/488,423 PCT No.: PCT/US02/27746 Int. Filing Date: 30 August 2002 Priority Date: 30 August 2001 Attorney Docket No.: HYS-43BCIP/PCT For: METHODS AND MATERIALS RELATING TO STEM CELL GROWTH FACTOR-LIKE POLY-PEPTIDES AND POLYNUCLEOTIDES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the proper reply, that is, payment of the basic national fee of $50 was provided. The required petition fee of $665 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is **03 March 2004.**

Cynthia M. Kratz

/Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

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

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

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MAY 01 2007
OFFICE OF PETITIONS

In re Application of :
Y. Tom Tang :
Application No. 10/488,423 : ON PETITION
Filed: March 3, 2004 :
Attorney Docket No. 5503-0002.30 :

This is a decision in response to the petition, filed January 16, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 8, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On January 3, 2007, a Notice of Abandonment was mailed. In response, on January 16, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

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

The application is being referred to Technology Center AU 1631 for consideration of the response filed January 16, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Browdy and Neimark
624 Ninth Street N W
Suite 300
Washington DC 20001

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of
Kristiansen et al.
Application No. 10/488,427
Filed: March 3, 2004
For: PRODUCTION OF FUNGAL EXTRACELLULAR IMMUNE STIMULATING COMPOUNDS
Attorney Docket No: KRISTIANSEN=2
Pub. No.: US 2005/01638001 A1
Pub. Date: July 28, 2005

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

The request is DISMISSED.

The instant request is that the application be republished because the publication contains a material mistake made by the Office, as the front page of the publication improperly list the city of the assignee, as "Hoerlsholm," while it should be "Hoersholm".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The instant request does not identify a material mistake in the publication made by the office. The assignee's name was correctly printed on the patent application publication in accordance with the name provided on the Application Data Sheet (ADS), filed with the application.[2] The office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

---

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

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

Even if the Office had made an error in printing the assignee information, this would not be a material mistake. A "material mistake" must affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On April 5, 2005, a Filing Receipt was mailed, which listed the assignee information. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

Applicant's request for a correct patent application publication on September 27, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.1704(c). This determination will be made on or after a mailing of a Notice of Allowance.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

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

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/488,427	03/03/2004	Bjoern Kristiansen	KRISTIANSEN2	3983

7590 03/05/2008
Browdy and Neimark
624 Ninth Street N W
Suite 300
Washington, DC 20001

EXAMINER
SINGH, SATYENDRA K

ART UNIT	PAPER NUMBER
1657	

MAIL DATE	DELIVERY MODE
03/05/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 0 5 2008

7590 Browdy and Neimark
624 Ninth Street N W Suite 300
Washington, DC 20001

In re Application of:	:
Kristiansen et al.	:
Serial No.: 10/488,427	: PETITION DECISION
Filed: March 3, 2004	:
Attorney Docket No.: KRISTIANSEN2	:

This is in response to the petition under 37 CFR § 1.181, filed February 14, 2008, requesting that the finality of the Office action of January 30, 2008 be withdrawn.

BACKGROUND

More recently, applicants filed a Request for Continued Examination on March 20, 2007 which included remarks and an amendment to claim 1.

The examiner mailed a non-final Office action on May 21, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-26, 30-32 and 36-45 were pending in the application. This statement corrects the listed pending claims on the Office Action Summary form mailed by the examiner on May 21, 2007 which indicated, incorrectly, that claims 1-24 and 38-45 were pending in the application. The examiner withdrew claims 25, 26, 30-32, 36 and 37 from examination as these claims were directed toward a non-elected invention leaving claims 1-24 and 38-45 for examination on their merits. The examiner rejected claims 1-11, 15, 21-24, and 38-44 under 35 U.S.C. 102(b) as being anticipated by Zheng et al. (1985) as supported by Jong & Birmingham (1993) and Wasser & Weis (1999). The examiner additionally rejected claims 1-24, and 38-45 under 35 U.S.C. 103(a) as being unpatentable over Zheng et al. (1985) as supported by Jong & Birmingham (1993) and Wasser & Weis (1999) in view of Tan & Moore and Kosuna et al.

In reply to the non-final Office action of May 21, 2007, applicants filed remarks and arguments, along with an amendment on November 21, 2007 which included the cancellation of claim 10 and the addition of new claims 46-58. Accompanying applicants' amendment was a Declaration filed under 37 CFR § 1.132 signed by Svein Rishovd.

On January 30, 2008, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-9, 11-26, 30-32 and 36-58 were pending in the application. This statement corrects the listed pending claims on the Office Action Summary form mailed by the examiner on January 30, 2008 which indicated, incorrectly, that claims 1-9, 11-24 and 38-58 were pending. The examiner maintained the withdrawal of claims 25, 26, 30-32, 36 and 37 from examination on the merits as these claims were directed toward a non-elected invention; thus leaving claims 1-9, 11-24 and 38-58 for examination on their merits. The examiner rejected claims 1-9, 11-24, and 38-58 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The examiner additionally rejected claims 23, 24, 38-44 and 52-55 under 35 U.S.C. 102(b) as being anticipated by Wasser & Weis (1999) as supported by Jong & Birmingham (1993) and rejected claims 1-9, 11-24 and 38-58 under 35 U.S.C. 103(a) as being unpatentable over Zheng et al (1985) taken with Jong & Birmingham (1993) and Wasser & Weis (1999), and in view of Tan & Moore (1992) and Kosuna et al. (US 5,756,318).

In response thereto, applicants filed this petition on February 14, 2008, requesting that the finality of the Office action of January 30, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on February 14, 2007, applicants request reconsideration of the final Office action mailed by the examiner on January 30, 2008 and request that the final Office action be modified, vacated or the finality of said Office action be withdrawn in favor of applicants.

Applicants initially cite 37 CFR 1.104 (b): "...the examiner's action 'will be complete as to all matters', with certain exceptions not relevant... 'matters of form' are those as to which objections are made, see MPEP 706.01. Even a rejection for indefiniteness is considered to relate to the substance, rather than the form, of the claim." Applicants further state that MPEP 707.07(g) warns about piecemeal examination, therein stating "piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available..." and further cites the MPEP 707.07 (f) which states that the examiner should "take note of the applicant's argument and answer the substance of it."

Having established the provisions provided in the MPEP, applicants proceed to argue that upon instituting the new grounds of rejection made under 35 USC § 112 First paragraph, Written Description, of claims 1-9, 11-24, and 38-58 , that the examiner did not properly follow the provisions according to MPEP 707.07(f):

> In presenting those new limitations and claims in the amendment of November 21, 2007, Applicants carefully explained how written description was provided (pages 9-10). While the Examiner appears to have acknowledged the disclosure of "various ranges" as cited at page 9, the Examiner plainly fails to take

note of the citation of In re Johnson and MPEP 2173.05(i) on page 10. The Examiner has thereby failed to comply with MPEP 707.07(f) and 35 USC 1.104(b).

However, first, it is noted that the MPEP § 707.07(f) is directed toward examiner's attention regarding applicant's *traversal* of rejections. Here, applicants have provided the citation of *In re Johnson* in alleged support of the amendments to claim 1; however, applicants were not traversing any rejection due to the fact that at this point in the prosecution, a rejection under 35 USC 112 first paragraph, Written Description had yet to be established on the record. Secondly, while the examiner's rejection of claims 1-9, 11-24, and 38-58 under 35 U.S.C. 112, first paragraph did not provide an explicit quote from applicants' cited support; i.e., *In re Johnson*, the examiner provided detailed reasons why the claims were rejected under 35 USC 112, first paragraph, for lacking written description which implicitly provided the suggestion that applicants' alleged support did not convince the examiner to agree to applicants' remarks concerning the newly added limitations to claim 1 (and consequently the newly added limitations to claims 2-9, 11-24, and 38-58 since these claims are directly or indirectly dependant upon claim 1 and therefore possess all of the limitations of claim 1). The examiner need not explicitly duplicate applicants' response in order to fully respond to their arguments. Thus, the alleged impropriety on the part of the examiner as alleged by applicants on this matter is not accepted.

Applicants additionally argue that:

> While our prior response analyzed Wasser & Weis and Jong & Birmingham primarily with respect to the purposes for which they were previously used, i.e., supporting anticipation by Zheng, we believe that there was discussion of Wasser & Weis in that response which is also relevant to the new rejection. First of all, we pointed out on page 12 that Chihara isolated intracellular molecules ("lentinan") from mycelia, not extracellular molecules from the supernatant. We revisited this point in section 2.6. Wasser and Weis' lentinan was isolated by the method of Chihara (see W&W Fig. I) and thus it too, is intracellular. We also said, on page 16, Wasser and Weis fail to distinguish between extracellular and intracellular lentinan", referring at that point to the relevance of their assertions to molecular weight. (The 500-1000 kDa lentinan referred to at W&W p. 40 was quite clearly Chihara's lentinan, isolated from "fruiting bodies" and thus intracellular, and thus does not address the molecular weight of extracellular immunostimulatory agents from Lentinus.) *Neither of these points was addressed by the examiner. This is, once again, a failure to take note of applicant's relevant arguments* (emphasis added)

However, it is seen in the final Office action of January 30, 2008 where the examiner has addressed the relevant arguments presented by applicants in the amendment of November 21, 2007. Also, upon instituting the new rejection of claims 23, 24, 38-44 and 52-55 under 35 U.S.C. 102(b) as being anticipated by Wasser & Weis (1999) as supported by Jong & Birmingham (1993), the examiner stated, in part:

> Claims are generally directed to an isolated immune stimulating agent **obtainable from** the extracellular part of the liquid growth medium according to the method of claim I, and which has a molecular weight in the range of from about 100,000 g/mol to about 1,000,000 g/mol (see recitations of instant claims 24, 38-44 and 52-55)... Wasser & Weis [W] [taught] an isolated immune stimulating agent obtainable from the fungus Lentinus, (emphasis in the examiner's original statement, see page 4, final Office action).

The examiner in this rejection subsequently explained why Wasser & Weis (1999) as supported by Jong & Birmingham (1993) taught the immune stimulating agent as claimed. It is clear that claims 23, 24, 38-44 and 52-55 are composition claims, claimed in product-by-process form. Product-by-process claims are examined in accordance with the MPEP § 2113 which states:

> PRODUCT-BY-PROCESS CLAIMS ARE NOT LIMITED TO THE MANIPULATIONS OF THE RECITED STEPS, ONLY THE STRUCTURE IMPLIED BY THE STEPS
> **"[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process."** In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985.

Thus, by stressing the limitation in claim 23; 'obtainable from' and specifically indicating that "Wasser & Weis [W] [taught] an isolated immune stimulating agent obtainable from the fungus Lentinus" the examiner is implying that although Wasser & Weis (1999) as supported by Jong & Birmingham (1993) did not explicitly state that the lentinan was obtained from an extracellular region during culturing of Lentinus, that the lentinan disclosed by Wasser & Weis (1999) as supported by Jong & Birmingham (1993) was nonetheless the same composition as described in claims 23, 24, 38-44 and 52-55. The phrase 'obtainable from' does not limit the composition from being *obtained from* the supernatant of Lentinus, as 'obtainable from' only indicates one viable means for obtaining the immune stimulating agent and therefore does not "...impart distinctive structural characteristics to the final product." Thus, the examiner implicitly reasoned that the lentinan disclosed by Wasser & Weis (1999), having a molecular weight within the molecular weight range as claimed, and further inherently possessing the claimed immune capabilities as supported by Jong & Birmingham (1993) provided for the limitations contained in claims 23, 24, 38-44 and 52-55 even if the immune stimulating agent was not 'obtained from' the extracellular supernatant of Lentinus.

As further evidence in contradiction to applicants' assertions regarding the contention that the examiner did not fully respond to applicants' arguments concerning the failure of Wasser and Weis to explicitly disclose that lentinan was derived in the extracellular supernatant produced by Lentinus, it is found that the examiner specifically addressed the following argument presented in the Declaration of Svein Rishovd filed on November 21, 2007 under 37 CFR § 1.132:

> "Given the properties of lentinan stated in the references Wasser and Weis and Chihara et al respectively, and given the method of production cited in US patent application no. 10/488,427, I would not expect that lentinan as cited in the references Wasser and Weis and Chihara et al. would be present in the liquid growth medium which is utilized in the instant invention."

The examiner replied by stating:

> This is not found to be persuasive because the instant disclosure as filed does not disclose a side-by-side comparison of the physico-chemical and medicinal properties of the two different isolates as asserted by Rishovd....

Thus, contrary to applicants' assertions, it is decided that the examiner fully responded to applicants' arguments as per the requirements set forth MPEP 707.07(f) and 35 USC 1.104(b).

Applicants additionally argue that:

> The original anticipation rejection in this case was based on Zhou Weidong et al. (10A) (office action of January 4, 2006, page 4). Then we received one based on Zheng, with support by Jong & Birmingham and Wasser & Weis (June 20, 2006, page 3; repeated May 21, 2007, page 2).
> The Examiner has now withdrawn the Zheng anticipation rejection, see note on page 17, and made a new anticipation rejection based on Wasser and Weis with support by Jong & Birmingham. Since both these references were of record, and indeed used to support the Zheng rejection, we don't understand why this rejection was not made previously. This appears to be an example of piecemeal examination prohibited by 37 CFR 1.104(b) and MPEP 707.07(g).

Applicants' statements on this point are not found convincing. The rejections set forth in the non-final Office action were proper rejections. It is deemed that the new rejections instituted by the examiner in the final Office action were implemented solely due to applicants' amendment to the claimed invention which narrowed the claims to exclude molecular weights outside of the range of 100,000 -1,000,000. Moreover, the examiner could not reasonably foresee such a change to the claimed invention. The MPEP specifically states that:

> A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. ....**[h]owever, note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances** (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph...(emphasis added)

Applicants' arguments are not persuasive that the final Office action issued January 30, 2008 was premature and, therefore, finality of the final Office action is deemed proper and will be not be withdrawn.

DECISION

The petition is **DENIED.**

Any request for reconsideration of this decision must be filed within two months of the date of this decision. Extension of this time is governed by 37 CFR 1.136(a).

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

Bruce Kisliuk
Director, Technology Center 1600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit: 1657
KRISTIANSEN, et al.	)	Examiner: SINGH, S.
Serial No.: 10/488,427	)	Washington, D.C.
Filed: March 3, 2004	)	February 14, 2008
For: PRODUCTION OF FUNGAL EXTRACELLULAR IMMUNE STIMULATING...	)	Docket No.: KRISTIANSEN=2
	)	Confirmation No.: 3983

PETITION TO VACATE OR MODIFY OFFICE ACTION AND/OR WITHDRAW FINALITY UNDER 37 CRF 1.181

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

Weber appeals w/ denial decision

S i r :

Applicants hereby petition for supervisory review under 37 CFR 1.181 of the final action mailed January 30, 2008 to consider whether it should be vacated or modified, and whether finality should be withdrawn.

37 CFR 1.104(b) states that the examiner's action "will be complete as to all matters", with certain exceptions not relevant here, and also giving some discretion as to "raising matters of form". It should be noted that "matters of form" are those as to which objections are made, see MPEP 706.01. Even a rejection for indefiniteness is considered to relate to the substance, rather than the form, of the claim.

MPEP 707.07(g) warns that "piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available...."

MPEP 707.07(f) requires the examiner to "take note of the applicant's argument and answer the substance of it".

1. In OA §1, the examiner asserts that the molecular weight limitations added to claims 1 and 23, or newly presented in new claims 46, 50, 51-55, violate the "written description" requirement.

In presenting those new limitations and claims in the amendment of November 21, 2007, Applicants carefully explained

how written description was provided (pages 9-10). While the Examiner appears to have acknowledged the disclosure of "various ranges" as cited at page 9, the Examiner plainly fails to take note of the citation of In re Johnson and MPEP 2173.05(i) on page 10. The Examiner has thereby failed to comply with MPEP 707.07(f) and 35 USC 1.104(b).

2. The original anticipation rejection in this case was based on Zhou Weidong et al. (10A) (office action of January 4, 2006, page 4). Then we received one based on Zheng, with support by Jong & Birmingham and Wasser & Weis (June 20, 2006, page 3; repeated May 21, 2007, page 2).

The Examiner has now withdrawn the Zheng anticipation rejection, see note on page 17, and made a new anticipation rejection based on Wasser and Weis with support by Jong & Birmingham. Since both these references were of record, and indeed used to support the Zheng rejection, we don't understand why this rejection was not made previously. This appears to be an example of piecemeal examination prohibited by 37 CFR 1.104(b) and MPEP 707.07(g).

3. While our prior response analyzed Wasser & Weis and Jong & Birmingham primarily with respect to the purposes for which they were previously used, i.e., supporting anticipation by Zheng, we believe that there was discussion of Wasser & Weis in that response which is also relevant to the new rejection. First of all, we pointed out on page 12 that Chihara isolated intracellular molecules ("lentinan") from mycelia, not extracellular molecules from the supernatant. We revisited this point in section 2.6. Wasser and Weis' lentinan was isolated by the method of Chihara (see W&W Fig. 1) and thus it, too, is intracellular.

We also said, on page 16, Wasser and Weis fail to distinguish between extracellular and intracellular lentinan", referring at that point to the relevance of their assertions to molecular weight. (The 500-1000 kDa lentinan referred to at W&W p. 40 was quite clearly Chihara's lentinan, isolated from

"fruiting bodies" and thus intracellular, and thus does not address the molecular weight of extracellular immunostimulatory agents from Lentinus.)

Neither of these points were addressed by the examiner. This is, once again, a failure to take note of applicant's relevant arguments.

We must also suggest that in applying the W&W reference for anticipation, the Examiner does not appear to have taken cognizance of what we said on page 11 of the last response with regard to the standard of proof for inherent anticipation, in particular, whether it is certain that W&W's "lentinan" is (1) of the correct molecular weight and (2) "extracellular", i.e., isolatable from culture supernatant.

4. Finally, we are puzzled by the Examiner's "claim suggestions" concerning claim 12. Is this truly a "suggestion", or is it a veiled command?

If the Examiner believes that claim 12 may be indefinite, he should formally reject claim 12 - and, since that rejection could have been made previously, finality should be withdrawn.

On the other hand, if the "suggestion" is merely that, and claim 12 is considered definite, then such should be stated on the record.

It is believed that this is a no-fee petition. If we are mistaken, please charge any fees due to Deposit Account 02-4035.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By: _____
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SUITE 1200
CLEVELAND OH 44114-3108

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SEP 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Peter Brent Littlewood et al.	:	
Application No. 10/488,440	:	ON PETITION
Filed: May 10, 2004	:	
Attorney Docket No.: 36497	:	

This is a decision on the petition filed April 11, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 4, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 5, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2883 for appropriate action on the amendment filed April 11, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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SEP 14 2006
OFFICE OF PETITIONS

In re Application of :
Peter Brent Littlewood et al. :
Application No. 10/488,440 : ON PETITION
Filed: May 10, 2004 :
Attorney Docket No.: 36497 :

Reviewed and Noted BLH 10/10/06

This is a decision on the petition filed April 11, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 4, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 5, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2883 for appropriate action on the amendment filed April 11, 2006.

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Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of Hideki Fukudome et al. Application No. 10/488,464 Filed: March 4, 2004 Attorney Docket Number: 1131-0502P Title: BODY PANEL WITH VIBRATION DAMPING MATERIAL,VIBRATION DAMPING MATERIAL COATER, AND DAMPING MATERIAL APPLICATION METHOD	:	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on November 17, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 8, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 9, 2005. A notice of abandonment was mailed on November 3, 2005.

With the present petition, Petitioner has asserted that a response to this communication was "timely filed on July 6, 2005[1]." Petitioner has submitted a copy of this response, but the response does not appear to contain a certificate of mailing.

1 Petition, page 1.

However, the electronic file has been reviewed, and the same contains the above-mentioned response. It is clear that this response was received on July 6, 2005.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Technology Center 3600 will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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Kenilworth NJ 07033

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OFFICE OF PETITIONS

In re Patent No. 7,375,109	:	DECISION ON REQUEST
Issue date: May 20, 2008	:	FOR RECONSIDERATION OF
Application No. 10/488,483	:	PATENT TERM ADJUSTMENT
Filed: February 26, 2004	:	and
Atty Docket No. 2001.668US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed June 10, 2008. Pursuant to patentees' duty of good faith and candor to the Office, patentees request confirmation of the issuance of a patent term adjustment of 275 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred seventy (270)** days.

On May 20, 2008, the above-identified application matured into U.S. Patent No. 7,375,109, with a revised patent term adjustment of 275 days. On June 10, 2008, patentees submitted the instant comment.

Patentees state that the request for review of the patent term adjustment is based on the Office's failure to calculate the number of days for applicant delay correctly.

A review of the application history confirms that an incorrect number of days was determined for applicant delay. 37 CFR 1.704(b) states that the period of adjustment under 35 U.S.C. 1.703 shall be reduced by any periods of time in excess of three months that are taken to reply to an action by the Office making any rejection, objection, argument or other request. In the present case, a final Office action was mailed on February 9, 2007. A response in compliance with §1.113(c), a request for continued examination (RCE) and amendment, was not filed until May 14, 2007, three months and 5 days later. Pursuant to 37 CFR 1.704(b), a period of reduction of 5 days is being entered.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of two hundred seventy (270) days.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred seventy (270)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

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 : 7,375,109 B3

DATED : May 20, 2008

INVENTOR(S) : Robert Gerardus Hannsen, 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 (275) days

Delete the phrase "by 275 days" and insert – by 270 days--

13 SEP 2004

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Bever Hoffman & Harms, LLP
Tri-Valley Office
1432 Concannon Blvd., Bldg. G
Livermore, CA 94550

In re Application of	:	
Albrecht et al.	:	
Application No. 10/488,486	:	DECISION ON
PCT No.: PCT/DE02/03196	:	
Int. Filing Date: 28 August 2002	:	PETITION UNDER
Priority Date: 30 August 2001	:	
Atty. Docket No.: INFMN-019	:	37 CFR 1.137(b)
For: Method And Device For Control Of	:	
The Data Flow On Application Of...	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 03 August 2004.

BACKGROUND

This international application was filed on 28 August 2002, claimed an earliest priority date of 30 August 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 27 March 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 30 February 2004.

On 27 February 2004, applicants filed inter alia a transmittal letter.

On 08 July 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application became abandoned with respect to the national stage in the U.S. for failure to timely pay the 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 an appropriate statement.

Regarding requirement (4), it is noted that a terminal disclaimer accompanied the instant petition. However, no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **03 August 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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PCT Legal Office
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Alcon Research
6201 South Freeway
Fort Worth, TX 76134-2099

Mail Date: 04/21/2010

Applicant	: Mark R. Hellberg	: DECISION ON REQUEST FOR
Patent Number	: 7598288	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/488,496	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1469** 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.

13 JAN 2005

#5

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ROGER S. BURLEIGH
INTELLECTUAL PROPERTY COUNSEL
ERICSSON, INC.
6300 LEGACY DRIVE, MS/EVW2C2
PLANO, TX 75024

In re Application of HUNDSCHEIDT et al.	:
Application No.: 10/488,513	: DECISION ON PETITION
PCT No.: PCT/EP01/11470	:
Int. Filing: 04 October 2001	:UNDER 37 CFR 1.47(a)
Priority Date: 06 September 2001	:
Attorney Docket No.: P15115-US1	:
For: CONTROLLING CHARGING FOR WIRE-	:
LESS MESSAGE SERVICES	:

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 02 November 2004, to accept the application without the signature of joint inventor, Reijo Olavi Salminen. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 03 March 2004, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 02 August 2004, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 02 November 2004, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor Reijo Salminen. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Reijo Olavi Salminen, alleging that Mr. Salminen refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor, Reijo Olavi Salminen, was provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

There is no evidence in the petition that a complete copy of the application papers, including specification, claims and drawings and declaration, were provided to Mr. Salminen. The petition indicates that only the declaration and power of attorney and an assignment were sent to the inventor for his signature with no mention or proof that a copy of application papers (specification, including claims, and drawings) were also sent to the nonsigning inventor for his signature. What is required is that Mr. Salminen be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application.

Furthermore, applicant attempted to satisfy Item (2) with the submission of the attorney of record Roger Burleigh's statement of facts which accompanied the petition. However, Mr. Burleigh's statement does not relate *his first hand knowledge* except to state that "On March 26, 2004, [he] sent an e-mail to Salminen stating that the application must be filed in the name of all inventors. On March 29, 2004, Salminen sent an e-mail to Roger Burleigh asking for more changes to the documents and stating that he would not sign them as they were." (Burleigh's Decl., ¶6 & 7). This is not an indication of refusal to sign. Mr Burleigh also relates the actions and conversations of Joan Kristensen, a European patent assistant, and Andreas Tonscheidt, a European patent attorney, without providing their firsthand accounts regarding Mr. Salminen's refusal to sign the application. It appears, however, that the discussions with Mr. Salminen involved the language of the assignment, rather than his refusal to sign the application. It may be that Mr. Salminen refuses to sign a Power of Attorney, rather than his refusal to sign the Declaration itself.

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

> *The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.* Statements based on hearsay will not normally be accepted.... It is important that the statement contain facts as opposed to conclusions.
>
> *A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.* A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> ....
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The

> document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

(Emphasis added.)

Statements by a party not present when an oral refusal is made will not be accepted. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts by the person having firsthand knowledge of the facts recited therein. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. Thus, at this time it cannot be concluded that Mr. Salminen refuses to sign the application.

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/488,513 (specification, including claims, drawings, and declaration*) to the nonsigning inventor for his signature and (2) Mr. Salminen's refusal to sign, either in writing or by telephone, these documents. A statement of facts under 37 CFR 1.47(a) regarding Mr. Salminen's refusal should be made by someone with first-hand knowledge.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

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

Telephone: (571) 272-3286
Facsimile (571) 272-0459

31 MAR 2005

#7

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PLANO, TX 75024

In re Application of HUNDSCHEIDT et al.	:
Application No.: 10/488,513	: DECISION ON
PCT No.: PCT/EP01/11470	:
Int. Filing: 04 October 2001	:RENEWED PETITION
Priority Date: 06 September 2001	:
Attorney Docket No.: P15115-US1	:UNDER 37 CFR 1.47(a)
For: CONTROLLING CHARGING FOR WIRE-	:
LESS MESSAGE SERVICES	:

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 11 March 2005.

On 02 November 2004, applicant filed a petition under 37 CFR 1.47(a) in response to a 21 February 2003 Notification of Missing Requirements, in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Reijo Salminen.

On 13 January 2005, a decision dismissing applicant's petition was mailed indicating that applicant had not properly established that inventor Reijo Salminen refused to execute the application.

On 11 March 2005, Petitioner filed the instant response including a declaration executed by Reijo Salminen. The renewed petition under 37 CFR 1.47(a) is considered moot as a declaration executed by the previously unavailable inventor has now been submitted and is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is considered **MOOT**. The declaration executed by Reijo Salminen is acceptable. The declaration executed by the joint inventor and submitted on 11 March 2005 in compliance with 37 CFR 1.497 and is acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 11 March 2005.

Cynthia M. Kratz

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

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FEB - 7 2006

ELI LILLY AND COMPANY
KIRBY W. LEE
PATENT DIVISION
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INDIANAPOLIS, IN 46206-6288

In re Application of	:
Jennifer R. Allen et al	:
Serial No.: 10/488,519	: PETITION DECISION
Filed: March 3, 2004	:
Attorney Docket No.: X-15335	:

This is in response to the petition under 37 CFR 1.144, filed November 23, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on March 3, 2004, and contained claims, as amended by preliminary amendment, 1-3, 7, 9-12 and 14-20. In a first Office action, mailed April 29, 2005, the examiner set forth a Lack of Unity requirement, as follows:

Group I, claims 1-2 and 14 drawn to products of Formula 1 with 7 variables defined as shown in example 1-1;
Group II, claims 1-2 and 14 drawn to products of Formula 1 with 7 variables defined as shown in example 5-1;
Group III, claims 1-2 and 14 drawn to products of Formula 1 with 7 variables defined as shown in example 7-1;
Group IV, claims 15-16 and 18-20, drawn to a method of treating a cognitive disorder related to schizophrenia; and
Group V, claim 17, drawn to a method of treating Alzheimer's disease.

(It is noted that a number of dependent claims were not included in the restriction requirement.) The examiner cautioned that the above list was not exhaustive and allowed applicants to elect an invention different from those listed. 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.

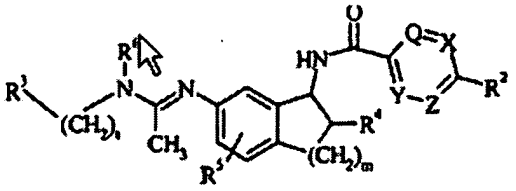
Applicants replied on June 29, 2005, electing, with traverse, Group I. Applicants argued that the Lack of Unity set forth did not follow the guidelines set forth in the PCT Rules and that no Lack of Unity was found in the international application; also that the examiner failed to properly determine the special technical feature under the Markush group guidelines. Further that the method of use claims should have been considered with the composition/compound claims in accordance with PCT guidelines. Lastly, that it is confusing that the examiner stated that the method of use claims would be examined with the product claims if they were of commensurate scope.

In the next Office action mailed to applicants on August 23, 2005, the examiner maintained the Lack of Unity requirement for the reasons set forth, again stating that there was no special technical feature or significant structural element common to all compounds. The examiner then defined the scope of applicants' claims by defining the variables' values. Claims 1-3, 7, 9-12 and 14-20 were rejected for obvious double patenting over US 6,395,735; and claims 15-20 were rejected under 35 U.S.C. 112, first paragraph, for lack of written description.

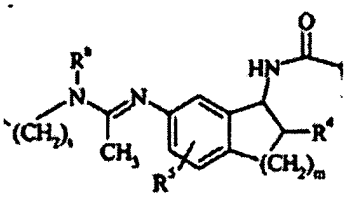
Applicants replied on November 23, 2005, amending claims 1, 9, 12 and 15 and adding claims 21-27 and responding to the rejections. Applicants also filed this petition of the restriction requirement concurrently.

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.



The examiner has defined the significant structural element as including all of the variables. This, however, is incorrect. The significant structural element is that portion of the structure which is shared by all alternatives. In this particular instance the portion shared by all compounds is:



Note that only one variable is contained in this structure which changes the basic structure, the R and chain CH_2 group variables being ignored. That variable is "m" which has a value of 1 or 2 for the ring CH_2 group. Based on this, there are two, and only two structures which are invariant throughout their structure. This is the (actually the two) significant structural element on which Unity is based. (It is recognized that this structure may not be that which ultimately determines classification.) This structure meets requirement (b)(2) of the PCT Administrative guidelines, Chapter 10, for determining Unity of Invention when dealing with Markush groups. It requires that there be a large portion of the structure which is common to all compounds, but does not require that the structure itself define over the prior art (that occurs when the additional variables are considered). Thus the compounds of claim 1 (as now amended which limits "m" to a value of 1) have Unity. The examiner's attempt to limit applicants to a defined narrow scope of compound claims, as set forth on page 5 of the last Office action is improper and in direct opposition to numerous judicial decisions, not the least of which are *In re Weber* and *In re Haas*, which categorically state that it is not within the prerogative of the examiner's powers to limit the scope of a claim; that must be done by applicants alone based on the examiner's objections and rejections based on prior art and/or compliance with other parts of the statute.

With respect to the method claims of Groups IV and V, the examiner has indicated the possibility of rejoinder if the compound claims are determined to be allowable so long as they are commensurate in scope therewith. This is, however, erroneous under PCT Unity standards which permits grouping of a product and a special method of using a product together. This the examiner has not done properly. The first mentioned method of using the product, absent a determination of Lack of Unity among the products, must be examined with the product. In accordance with TC 1600 practice, when a product claim is found allowable, all methods of using that product are considered for compliance with applicable statutes, irrespective of whether the application was filed under 35 U.S.C. 111 or 35 U.S.C. 371.

DECISION

The petition is **GRANTED.** The restriction requirement between Groups I-III is withdrawn. In addition, Group IV is rejoined with the product claims for consideration of patentability and Group V, a second method of use, will also be rejoined if the product claims and first method claims are found patentable.

The application will be forwarded to the examiner for consideration of applicants' response of November 23, 2005, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Wilson : DECISION ON PETITION
Application No. 10/488,521 :
Filed: March 3, 2004 :
Docket No.: 3029-000081 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 7, 2005.

This application was held abandoned July 1, 2005 for failure to timely submit a proper reply to the non-final Office action mailed March 31, 2005. Notice of Abandonment was mailed November 1, 2005.

Petitioner asserts that a response to the non-final Office action was timely submitted on June 22, 2005 and has submitted as proof of USPTO receipt of the reply a return postcard dated stamped June 22, 2005.

The original amendment submitted June 22, 2005 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JACKSON WALKER L.L.P.

FACSIMILE

DATE: October 6, 2006

TOTAL PAGE COUNT: 6

FROM: Mark A. Tidwell

DIRECT DIAL NUMBER: (713) 752-4578

NAME	COMPANY NAME	FACSIMILE NUMBER	PHONE NUMBER
Senior Petitions Attorney Christina Tartera Donnell	USPTO **Office of Petitions** Group Art Unit 3662	(571) 273-8300	(571) 272-3211

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MESSAGE: Serial No. 10/448,547

Response to Decision on Petition Mailed September 26, 2006 and Response to Office Action Mailed August 19, 2005 transmitted herewith.

Regards,
Mark A. Tidwell
Reg. No. 37,456

Austin
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Houston
Richardson
San Angelo
San Antonio

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Clifford H. Ray, et al.	§	Attorney Docket No. 021120.0035.000
Serial No.: 10/448,547	§	Group Art Unit: 3662
Filed: May 30, 2003	§	Examiner: Lobo, I.
Title: METHOD AND APPARATUS FOR SEISMIC DATA ACQUISITION	§	

Attn: Senior Petitions Attorney Christina Tartera Donnell

Mail Stop Petitions

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

RESPONSE TO DECISION ON PETITION MAILED SEPTEMBER 26, 2006

Sir:

In Decision on Petition mailed September 26, 2006, the Office indicated that the Petition to Revive filed on March 7, 2006 failed to include a full reply to the outstanding office action because the Applicant did not "make an affirmation of the election" of Group I claims made by Applicant's attorney, Mr. Tidwell, in an August 17, 2006 phone conversations between the Examiner and Mr. Tidwell.

The Decision indicates that an office action dated September 18, 2005 set forth the such a requirement. However, no office action of that date appears in the file wrapper and thus, Applicant may require further clarification if the remainder of this response is not satisfactory.

PAGE 2/6 * RCVD AT 10/6/2006 10:42:02 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:713 752 4221 * DURATION (mm-ss):01-08

Applicant notes that an Office Action dated August 19, 2005 did acknowledge the Group I election made in the August 17, 2005 conversation and Applicant presumes that this is the requirement referenced in the Decision. In the August 19, 2005 Office Action, the Examiner identified Group I claims (1-54, 122-126, 135-139 and 164-167) and Group II claims (55-74, 138, 139, and 168-173). While the Applicant's Response to the August 19, 2005 Office Action that was filed with the Petition did not specifically restate the election, it deleted the claims of Group II and presented substantive arguments only to the claims of Group I. Arguably, this in and of itself should be a satisfactory "affirmation of the election" since this phrase has no specific legal meaning.

However, to be clear for the record, Applicant hereby elects the claims of Group I as identified by the Examiner in the August 19, 2006 Office Action. Attached hereto is a formal election and a reaffirmation of the statement in this Response.

On the basis that the foregoing satisfies the requirements of an "affirmation of the election", Applicant reasserts the Petition and respectfully requests that the Petition be granted and the application proceed with substantive examination.

If additional action is required by the Applicant in order to address the issues raised in the Decision or if a new Petition to Revive is required, Applicant respectfully requests that Ms. Donnell contact Applicant's attorney, Mr. Tidwell, at 713-752-4578 in order to expedite processing of the Petition.

Respectfully submitted,

JACKSON WALKER L.L.P.

Mark A. Tidwell
Reg. No.37,456
112 E. Pecan Street, Suite 2100
San Antonio, Texas 78205
713/752-4578 Telephone
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Attorneys for Applicant

4387518v.1 021120/00035

PAGE 3/6 * RCVD AT 10/6/2006 10:42:02 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:713 752 4221 * DURATION (mm-ss):01-08

CERTIFICATE OF FAXING

I hereby certify that the listed documents are being faxed on the date shown below to the "Commissioner for Patents, **Attn: Senior Petitions Attorney Christina Tartera Donnell**, Mail Stop Petition, P.O. Box 1450, Alexandria, Virginia 22313-1450", as follows:

By Fax: (571) 273-8300

ATTN: Office of Petitions

Documents enclosed are:

[X] Response to Decision on Petition Mailed September 26, 2006, including Certificate of Mailing (3 pgs).;

[X] Response to Office Action Mailed August 19, 2005, including Certificate of Mailing (2 pgs.)

Date: October 6, 2006

Renee Treider
Printed Name of Person Mailing Paper or Fee

Signature of Person Mailing Paper or Fee

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Clifford H. Ray, et al.	§	Attorney Docket No. 021120.0035.000
Serial No.: 10/448,547	§	Group Art Unit: 3662
Filed: May 30, 2003	§	Examiner: Lobo, I.
Title: METHOD AND APPARATUS FOR SEISMIC DATA ACQUISITION	§	

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

RESPONSE TO OFFICE ACTION MAILED AUGUST 19, 2005

Sir:

In response to the Office Action mailed August 19, 2005, and to reaffirm the election made by Applicant in the telephone conversation of August 17, 2005, between the Applicant's attorney and the Examiner, Applicant elects the claims of Group I.

Respectfully submitted,

JACKSON WALKER L.L.P.

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112 E. Pecan Street, Suite 2100
San Antonio, Texas 78205
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713/752-4221 Facsimile
Attorneys for Applicant

4201150v.2 021120/00035

CERTIFICATE OF FAXING

I hereby certify that the listed documents are being faxed on the date shown below to the "Commissioner for Patents, **Attn: Senior Petitions Attorney Christina Tartera Donnell**, Mail Stop Petition, P.O. Box 1450, Alexandria, Virginia 22313-1450", as follows:

By Fax: (571) 273-8300

ATTN: Office of Petitions

Documents enclosed are:

[X] Response to Decision on Petition Mailed September 26, 2006, including Certificate of Mailing (3 pgs).;

[X] Response to Office Action Mailed August 19, 2005, including Certificate of Mailing (2 pgs.)

Date: October 6, 2006

Renee Treider
Printed Name of Person Mailing Paper or Fee

Signature of Person Mailing Paper or Fee

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Mail Date: 04/20/2010

Applicant	: Kazuhiko Takahata	: DECISION ON REQUEST FOR
Patent Number	: 7589798	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/488,558	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **498** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 05/17/2010

Applicant : Kazuhiko Takahata
Patent Number : 7589798
Issue Date : 09/15/2009
Application No : 10/488,558
Filed : 03/04/2004

: 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 **568** 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).

11 JAN 2005

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Dann Dorfman Herrell & Skillman
A Professional Corporation
1601 Market Street
Suite 720
Philadelphia PA 19103

In re Application of	:	
MEDER et al.	:	
Application No.: 10/488,569	:	DECISION
PCT No.: PCT/US02/28765	:	
Int. Filing Date: 09 September 2002	:	
Priority Date: 07 September 2001	:	
Attorney Docket No.: R&H 04-03	:	
For: GLASS BONDED FIBER ARRAY AND	:	
METHOD FOR THE FABRICATION THEREOF	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 24 November 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 September 2002, applicants filed international application PCT/US02/28765, which designated the United States and claimed a priority date of 07 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (07 March 2004 being a Sunday).

On 03 March 2004, 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 21 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 22 November 2004, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, three declarations of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a petition/fee for a two month extension of time, and two Track Shipment reports from the Federal Express web site.

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.

As to item (1), the petition fee of $200 under 37 CFR 1.17(g) has been charged to Deposit Account 04-1406.

Item (3) has been satisfied.

Item (2) has been satisfied. The statement of Niels Haun includes firsthand knowledge that Mr. Dautartas confirmed that he received the application papers and that he orally refused to execute the declaration of inventors on 09 August 2004.

Item (4) has not been satisfied. The declarations of inventors filed 24 November 2004 are not in compliance with 37 CFR 1.497(a)-(b). The declarations fail to identify the citizenship of William Stacy, Mindaugas F. Dautartas, and Dan A. Steinberg. Also, the published international application lists William Stacy as inventor while the declarations filed 24 November 2004 list William T. Stacy as inventor. Regarding these differences in names, a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

01 JUN 2005

#10

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Dann Dorfman Herrell & Skillman
A Professional Corporation
1601 Market Street
Suite 720
Philadelphia PA 19103

In re Application of	:	
MEDER et al.	:	
Application No.: 10/488,569	:	DECISION
PCT No.: PCT/US02/28765	:	
Int. Filing Date: 09 September 2002	:	
Priority Date: 07 September 2001	:	
Attorney Docket No.: R&H 04-03	:	
For: GLASS BONDED FIBER ARRAY AND	:	
METHOD FOR THE FABRICATION THEREOF	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 18 April 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 September 2002, applicants filed international application PCT/US02/28765, which designated the United States and claimed a priority date of 07 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (07 March 2004 being a Sunday).

On 03 March 2004, 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 21 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 22 November 2004, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, three declarations of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a petition/fee for a two month extension of time, and two Track Shipment reports from the Federal Express web site.

On 11 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) for failure to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

On 18 April 2005, applicants submitted the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, declarations of inventors executed by William Stacy and Dan A. Steinberg.

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.

As noted in the decision mailed 11 January 2005, items (1)-(3) have been satisfied. Regarding item (4), the decision mailed 11 January 2005 noted that the declarations filed 24 November 2004 failed to identify the citizenship of William Stacy, Mindaugas F. Dautartas, and Dan A. Steinberg and that the published international application lists William Stacy as inventor while the declarations filed 24 November 2004 list William T. Stacy as inventor.

Item (4) has now been satisfied. The declaration filed 24 November 2004 executed by Martin G. Meder and the declarations filed 18 April 2005 executed by William Stacy and Dan A. Steinberg satisfy 37 CFR 1.497(a)-(b).

CONCLUSION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the 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 forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **18 April 2005**.

Daniel Stemmer
Legal Examiner

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

01 JUN 2005

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Mindaugas F. Dautartas
2006 Sycamore Trail
Blacksburg, VA 24060

In re Application of
MEDER et al.
Application No.: 10/488,569
PCT No.: PCT/US02/28765
Int. Filing Date: 09 September 2002
Priority Date: 07 September 2001
Attorney Docket No.: R&H 04-03
For: GLASS BONDED FIBER ARRAY AND METHOD FOR THE FABRICATION THEREOF

Dear Mr. Dautartas:

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

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

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

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Franklin et al.	:	DECISION ON PETITION
Application No. 10/848,588	:	TO WITHDRAW
Filed: May 18, 2004	:	FROM RECORD
Attorney Docket No. 09487-013002	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 2005.

The request is **APPROVED**.

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

The request was signed by G. Roger Lee on behalf of all attorneys of record.

All attorneys/agents have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: R. STEVEN THING
NEUTAR, LLC
P.O. BOX 399
BOWDOINHAM, ME 04008

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BANNER & WITCOFF, LTD.
28 STATE STREET
28TH FLOOR
BOSTON MA 02109-9601

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Bernd Papenfuhs et al	:	
Application No. 10/488,593	:	DECISION ON PETITION
Filed: October 4, 2004	:	
Attorney Docket No. 005430.00004	:	

This is a decision on the petition, filed September 26, 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 reply to the Restriction Requirement (Office Action) mailed March 3, 2006.

Petitioner asserts that the Office Action dated March 3, 2006 was not received.

A review of the file record indicates that the Office Action was properly mailed to the practitioner at the address of record. However, Office records do show that the Office Action mailed March 3, 2006 was returned as undelivered on March 15, 2006.

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 AU 1713 technical support staff for **re-mailing** the Restriction Requirement of March 3, 2006. The period for reply will be reset to expire from the date the Office Action is re-mailed.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

Mailed: 6-6-07

In re application of	:	
Bernd Papenfuhs et al.	:	DECISION ON
Serial No. 10/488,593	:	PETITION
Filed: October 4, 2004	:	

For: HIGH-MOLECULAR, CROSSLINKED POLYVINYL BUTYRALS, METHOD FOR THE PRODUCTION AND USE THEREOF

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed February 9, 2007.

On February 9, 2007, a restriction requirement was made by the examiner. The examiner took the position that the groups listed in the office action were lacked unity of invention because the special technical feature of the claims of Group I was not required by the claims of Group II and further that the special technical feature of the claims of Group II was not required by the claims of Group I.

Applicants filed the instant petition on March 9, 2007, along with a reply to the outstanding office action. Applicant's position for the withdrawal of the restriction requirement is that the restriction requirement issued by the examiner included no rationale or argument as to how the pending claims lacked unity of invention.

DECISION

It is noted that the examiner prepared a non-final office action which was mailed on April 12, 2007. In this action, the examiner withdrew the existing restriction requirement and examined all of the claims, thereby making the instant petition moot. Accordingly, the petition is **DISMISSED.**

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON MA 02109-9601

28 JUL 2004

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Jennifer M. Brumbaugh
RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304

In re Application of
BARDOWSKI, Jacek et al
U.S. Application No.: 10/488,645
PCT No.: PCT/PL02/00041
Int. Filing Date: 26 June 2002
Priority Date: 14 July 2001
Attorney Docket No.: 66296-0001
For: A NOVEL PLASMIDIC GENE, WAYS OF ACQUIRING THIS GENE, THE AMYLOLYTIC ENZYME IT ENCODES AND ITS APPLICATION

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an Application Unintentionally Abandoned Under 37 CFR 1.137(b)" filed with the national stage papers on 04 March 2004 is hereby **GRANTED** as follows:

The appropriate petition fee of $665.00 for a small entity has been paid. 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.

The declaration provided with the national stage papers was not in compliance with 37 CFR 1.497(a) and (b). The last name of the second inventor differs from the name listed in the international publication. There is no record of a change in the inventor's name from the International Bureau pursuant to PCT Rule 92bis. A petition under 37 CFR 1.182 is required to change an inventor's name. *See* § 605.04(c).

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $65.00 pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202-3789

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OFFICE OF PETITIONS

In re Application of	:	
WADDELL, et al.	:	
Application No. 10/488,664	:	DECISION ON PETITION
Filed: March 4, 2004	:	TO WITHDRAW
Attorney Docket No. 25791.67.06	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **NOT APPROVED.**

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING LLP
1100 LOUISIANA STREET, SUITE 4000
HOUSTON, TX 77002

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Paper No.

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FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Takano et al.	:	
Application No. 10/488,672	:	LETTER REGARDING
Filed: August 19, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. SHZ-020US	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed February 23, 2009. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the initial patent term adjustment of 364 days may be longer than appropriate by 37 days.

The request for correction of the initial determination of patent term adjustment (PTA) 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 three hundred twenty-seven **(327)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On December 4, 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 364 days. Applicants disclose that a period of reduction of 37 days pursuant to 37 CFR 1.704(c)(8) should have been entered for the Information Disclosure Statement (IDS) filed April 4, 2008.

A review of the record confirms that a period of reduction should have been entered for the filing of the IDS on April 4, 2008.

37 CFR 1.704 (c) provides 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:
>
> > (8) 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;

In this instance, applicants filed a response to a final rejection on February 27, 2008. Thereafter, on April 4, 2008, applicants filed the IDS. The IDS did not include a §1.704(d) statement and was not expressly requested by the examiner. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 37 days is being entered.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the notice of allowance is three hundred twenty-seven (327) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are 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 applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

Day : Friday
Date: 6/19/2009

PALM INTRANET

Time: 17:35:49

PTA Calculations for Application: 10/488672			
Application Filing Date:	08/19/2004	PTO Delay (PTO):	391
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	27
Post-Issue Petitions:	0	Total PTA (days):	327
PTO Delay Adjustment:	-37		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
81	06/19/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		37	
67	12/04/2008	MAIL NOTICE OF ALLOWANCE			
66	12/03/2008	ISSUE REVISION COMPLETED			
65	12/03/2008	DOCUMENT VERIFICATION			
64	12/03/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	11/20/2008	NOTICE OF ALLOWABILITY			
62	09/20/2008	DATE FORWARDED TO EXAMINER			
61	08/12/2008	RESPONSE AFTER NON-FINAL ACTION			
60	04/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	05/28/2008	MAIL NON-FINAL REJECTION			
57	05/27/2008	NON-FINAL REJECTION			
56	02/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	04/04/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	04/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	02/27/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
52	02/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	03/12/2008	DATE FORWARDED TO EXAMINER			
50	02/27/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	03/12/2008	DATE FORWARDED TO EXAMINER			
48	02/27/2008	REQUEST FOR CONTINUED EXAMINATION		27	41

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47	03/12/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	02/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	02/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	02/27/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	01/09/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
42	01/02/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
41	10/31/2007	MAIL FINAL REJECTION (PTOL - 326)			
40	10/29/2007	FINAL REJECTION			
39	09/07/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
38	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
37	08/23/2007	DATE FORWARDED TO EXAMINER			
36	08/15/2007	RESPONSE AFTER NON-FINAL ACTION			
35	07/24/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
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33	06/08/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
32	06/19/2007	DATE FORWARDED TO EXAMINER			
31	06/08/2007	RESPONSE AFTER NON-FINAL ACTION			
30	02/23/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
29	03/08/2007	MAIL NON-FINAL REJECTION			
28	03/03/2007	NON-FINAL REJECTION			
27	01/08/2007	DATE FORWARDED TO EXAMINER			
26	12/14/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
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21	05/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
20.7	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	02/15/2005	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
16	02/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	12/13/2004	CLEARED BY OIPE CSR			
14	08/19/2004	371 COMPLETION DATE			
13	11/24/2004	APPLICATION RETURN FROM OIPE			
12	11/24/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
11	11/24/2004	APPLICATION RETURN TO OIPE			
9	11/23/2004	APPLICATION DISPATCHED FROM OIPE			
8	11/23/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	08/19/2004	ADDITIONAL APPLICATION FILING FEES			
5	08/19/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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DIW Feb-07

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

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FEB 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,023,223	:	
Issued: 4 April, 2006	:	
Application No. 10/488,680	:	ON PETITION
Filed: 24 September, 2004	:	
Atty Docket No. 09447.0004	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION" filed on 23 May, 2006, which is treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **dismissed**.

Petitioners request that a Certificate of Correction be issued adding "Hokuto Electronics, Inc." as an assignee. 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***. U.S. Patent and Trademark Office assignment records disclose that an assignment in the name of the assignee listed above was recorded on 23 May, 2006, after the patent issued on 4 April, 2006. Accordingly, since there is no evidence that the assignment to Hokuto Electronics, Inc., was submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.[2]

Since a Certificate of Correction is not in order, the processing and certificate of correction fees will be credited to counsel's deposit account.

---

[1] See Official Gazette of 22 June, 2004.
[2] See also MPEP 307.

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

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

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

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

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Eyal Fishler	:	
Application No. 10/488685	:	
Filing or 371(c) Date: 12/09/2004	:	
Attorney Docket Number:	:	
8203-0020	:	ON PETITION

This is a decision on the Petition to the Commissioner Under 37 C.F.R. § 1.181 to Withdraw Holding of Abandonment, filed April 20, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 3, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on December 4, 2008. A Notice of Abandonment was mailed April 15, 2009.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed the Electronic Filing System ("EFS") on March 3, 2009 including a three (3) month extension of time request and fee. In support of this assertion, applicant files a copy of the reply, along with a copy of an EFS filing receipt which acknowledges receipt by this Office of an Amendment and Remarks, and a three (3) month extension of time request and fee on March 3, 2009.

Review of Office records

A review of Office records also reveals that the Office received the Amendment and Remarks, and a three (3) month extension of time request and fee on March 3, 2009.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2419 for processing of the Amendment and Remarks, and for continued examination in the normal course of business.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JUN 28 2005

Robert H. Berdo, Jr.
RABIN & BERDO, P.C.
1101 14th Street, NW
Washington, DC 20005

In re application of	:	
Xiangming WU et al.	:	DECISION ON PETITION
Application No. 10/488,700	:	TO RESET A
Filed: March 5, 2004	:	TIME PERIOD

For: GUIDEWAY STRUCTURE FOR HIGH-SPEED TRACK-BOUND TRANSPORTATION

This is in reply to the Petition to Reset Time Period, received in the Patent and Trademark Office on April 19, 2005. There is no fee required for this petition.

The petition is **GRANTED.**

A non-final Office Action was mailed on March 15, 2005, setting forth a three-month response period. Petitioner states that the above Notice was not received until April 11, 2005.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

The petition meets all of the above requirements.

The time period set in the Notice of Allowance is therefore reset to run three months from the postmark date of April 11, 2005.

SUMMARY: The Petition to Reset Time Period is **GRANTED**.

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

KJD/js: 6/17/05

22 .11 11 2004

#3

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WWW.USPTO.GOV

Jordan and Hamburg LLP
122 East 42nd Street
New York NY 10168

In re Application of Shigemi HIDAKA Application No.: 10/488,713 PCT No.: PCT/JP99/05063 Int. Filing Date: 16 September 1999 Priority Date: 16 December 1998 Attorney Docket No.: F-8146 For: WORK VEHICLE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the proper reply, that is, payment of the basic national fee of $920 was provided. The required petition fee of $1330 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, in compliance with 37 CFR 1.497(a) &(b) and executed by the inventor, and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

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

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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

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FEB 29 2008

OFFICE OF PETITIONS

In re Application of
Pablo Vicente Escriba-Ruiz
Application No. 10/488,726
Filed: August 26, 2004
Attorney Docket No. U 015060-1

ON PETITION

This is a decision in response to the petition, filed October 24, 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 a non-final Office action mailed July 18, 2006. This decision precedes the mailing of a Notice of Abandonment. On October 24 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1614 for consideration of the response filed October 24, 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

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DEC 21 2004

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of Winfried Albert et al Serial No.: 10/488,729 Filed: March 5, 2004 Attorney Docket No.: 227143	: PETITION TO MAKE SPECIAL

This is in response to the petition filed December 10, 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, X. Therefor the petition is **GRANTED**.

The petition fee of $130.00 will be charged to applicants' Deposit Account No. 12-1216, as directed.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Serial no. 10/488743
Date Mailed :September 23, 2008
Patent No. : 7,306,944 B2
Patent Issued :December 11, 2007
Inventor(s) : Su-Young Choi, et al.
Title :ADVANCED CELL-TRANSDUCING TRANSPORT DOMAIN-TARGET PROTEIN-TRANSPORT DOMAIN FUSION PROTEIN AND USES THEREOF

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.
A petition under C.F.R. 1.182 is required to correct the alleged errors in spelling or order of inventor's names, since inventor's names are printed solely in accordance with the type-written names, and in the order of the type-written names on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names in correct order, be indicated on the Declaration or Oath, no correction is in order here under the provisions of Rule 1.323 (required fee currently $100), unless a petition is granted.

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

A certificate will issue for the remaining error noted in your request.

However, a petition under 37 CFR 1.182 (required fee currently $130) should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

Magdalene Talley
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (571)270-9942

Nelson Mullins Riley & Scarborough
1320 Main Street, 17th Fl.
Columbia, SC 29201

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Nelson Mullins Riley & Scarborough LLP
IP Department
100 North Tryon Street
42nd Floor
Charlotte NC 28202-4000

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In re Patent No. 7,306,944	:	
Issued : December 11, 2007	:	
Application No. 10/488,743	:	ON PETITION
Filed: August 23, 2004	:	
Attorney Docket No. **22046/09002**		

This is a decision on the petition under 37 CFR 1.182, filed September 14, 2009, to correct the spelling of the inventors names in the above-cited patent by was of certificate of correction.

The petition is **granted.**

The address cited on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address cited on the petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being directed to the Certificate of Correction Branch for issuance of the requested certificate of correction[1] correcting the spellings of the names of inventors Choi, Park, and Han.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Marcia Greci
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

[1] The requested certificate of correction is of record as of September 8, 2008.

25 AUG 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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B. Aaron Schulman
STITES & HARBISON
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314

In re Application of:	:	
VEENSTRA, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/488,774	:	REVIVE ABANDONED
PCT No.: PCT/ZA01/00132	:	APPLICATION UNDER 37
International Filing Date: 04 September 2001	:	CFR 1.137(b)
Priority Date: 05 September 2000	:	
Attorney's Docket No.: PO8203US00/BAS	:	
For: MONOCLONAL ANTIBODY AGAINST	:	
OVARIAN CARCINOMA	:	

The petition to revive under 37 CFR 1.137(b) filed 05 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

The 05 March 2004 submission included an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 12-0555 will be charged the required $130 surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The 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

28 MAR 2005

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re Application of	:	
LASKEY et al.	:	
Application No.: 10/488,789	:	DECISION
PCT No.: PCT/GB02/03793	:	
Int. Filing Date: 16 August 2002	:	
Priority Date: 05 September 2001	:	
Attorney Docket No.: 1417-233	:	
For: DIELESS FOILING	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 08 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 16 August 2002, applicants filed international application PCT/GB02/03793, which designated the United States and claimed a priority date of 05 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 13 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2004.

On 05 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 10 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 08 March 2005, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of the inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a petition/fee for a five month extension of time, and a declaration in support of the 37 CFR 1.47(a) petition by Simon Paul Plant.

DISCUSSION

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

Items (1), (3), and (4) have been satisfied.

As to item (2), MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.
>
> . . .
>
> 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. . . .

The facts of record make it clear that Mr. Laskey understands exactly what he is being asked to sign and expressly stated that the application papers should not be sent. Accordingly, item (2) has been satisfied.

CONCLUSION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to 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 Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **08 March 2005**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3301
Facsimile: (571) 273-0459

28 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Paul Andrew Laskey
30 Hunslet Street
Nelson
Lancashire BB9 OJF
United Kingdom

In re Application of
LASKEY et al.
Application No.: 10/488,789
PCT No.: PCT/GB02/03793
Int. Filing Date: 16 August 2002
Priority Date: 05 September 2001
Attorney Docket No.: 1417-233
For: DIELESS FOILING

Dear Mr. Laskey:

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

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

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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/24/07

Paper No.: ____

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 7071557

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

EUGENE LEE
PRIMARY EXAMINER

SPE

2815
Art Unit

12 JAN 2005

#8

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ALEXANDRIA, VA 22313-1450
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John E Toupal
116 Concord Street
Framingham MA 01702

In re Application of	:	
CARDENAS et al.	:	
Application No.: 10/488,799	:	DECISION
PCT No.: PCT/US02/28087	:	
Int. Filing Date: 05 September 2002	:	
Priority Date: 06 September 2001	:	
Attorney Docket No.: D.1576-#2	:	
For: ELECTRICAL BOX WITH DEFLECTABLE	:	
SIDE WALLS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 26 November 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28087, which designated the United States and claimed a priority date of 06 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (06 March 2004 being a Saturday).

On 05 March 2004, 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 30 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 29 September 2004, applicants filed a petition/fee for a one month extension of time.

On 29 October 2004, applicants filed a petition/fee for a two month extension of time.

On 04 November 2004, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, inter alia, that the response field 29 September 2004 was acknowledged but that the requirements set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 July 2004 had not been met. This NOTIFICATION set a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 July 2004, whichever was longer. This Notification also noted that no extension of this time limit may be granted under 37 CFR 1.136, but that the period for response set in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 July 2004 may be extended under 37 CFR 1.136(a).

On 26 November 2004, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

DISCUSSION

The NOTIFICATION OF DEFECTIVE RESPONSE mailed 04 November 2004 is hereby VACATED. The petitions/fees for extensions of time filed 29 September 2004 and 29 October 2004 were not responses. The fee for the third month extension of time required for the response filed 26 November 2004 has been charged to Deposit Account 20-1375.

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.

As to item (1), the petition fee of $200 under 27 CFR 1.17(g) has been charged to Deposit Account 20-1375. Thus, item (1) has been satisfied.

Item (3) has been satisfied.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the

application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. The letter to Mr. Patin suggests that only a Power of Attorney and a declaration of inventors for the above-identified application were sent to him. Additionally, it appears that only one letter was sent to Mr. Patin and that no follow-up, e.g., through another letter or a phone call, to this letter. Follow-up is required to establish that Mr. Patin refuses to execute the application. (It appears from the copy of the certified mail receipt that Mr. Patin has been found. Thus, applicants must establish a refusal to sign.)

Item (4) has not been satisfied. The declaration filed 26 November 2004 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes one "[Page 1 of 2]", two "[Page 2 of 2]", three "Supplemental Sheet, Page 1 of 2", and one "Supplemental Sheet, Page 2 of 2". This suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors. Also, the published international application lists Randolph E. Maxwell as inventor while the declaration filed 26 November 2004 list Randolph Maxwell as inventor. Regarding these differences in names, a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application is required.

CONCLUSION

For the above reasons, the NOTIFICATION OF DEFECTIVE RESPONSE mailed 04 November 2004 is VACATED.

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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01 MAR 2005

#10

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In re Application of	:	
CARDENAS et al.	:	
Application No.: 10/488,799	:	DECISION
PCT No.: PCT/US02/28087	:	
Int. Filing Date: 05 September 2002	:	
Priority Date: 06 September 2001	:	
Attorney Docket No.: D.1576-#2	:	
For: ELECTRICAL BOX WITH DEFLECTABLE	:	
SIDE WALLS	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed via facsimile transmission on 07 February 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28087, which designated the United States and claimed a priority date of 06 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (06 March 2004 being a Saturday).

On 05 March 2004, 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 30 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 29 September 2004, applicants filed a petition/fee for a one month extension of time.

On 29 October 2004, applicants filed a petition/fee for a two month extension of time.

On 04 November 2004, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, inter alia, that the response field 29 September 2004 was acknowledged but that the requirements set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 July 2004 had not been met. This NOTIFICATION set a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 July 2004, whichever was longer. This Notification also noted that no extension of this time limit may be granted under 37 CFR 1.136, but that the period for response set in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 July 2004 may be extended under 37 CFR 1.136(a).

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 12 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided. This decision also vacated the NOTIFICATION OF DEFECTIVE RESPONSE mailed 04 November 2004.

On 07 February 2005, applicants submitted the instant 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(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.

As noted in the decision mailed 12 January 2005, items (1) and (3) have been satisfied.

Regarding item (2), the decision mailed 12 January 2005 indicated that it was not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin and that some sort of follow-up to the letter sent to Mr. Patin was required in order to establish that he refuses to execute the application. The renewed petition indicates that a follow-up letter was sent to Mr. Patin on 08 November 2004 and a follow-up telephone call was made to Mr. Patin's residence on 09 November 2004. Regarding the letter, a copy of it was not provided

with the renewed petition (Although it appears that a copy was intended to be sent, the facsimile transmission ended with page 6 of the renewed petition.) Regarding the telephone call, a statement of facts by a person having firsthand knowledge has not been provided. Additionally, it is still not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. Thus, item (2) has not been met.

Regarding item (4), the decision mailed 12 January 2005 indicated that the declaration of inventors was not in compliance with 37 CFR 1.497(a)-(b) because (i) each submitted declaration must be complete, even if executed by only one of the inventors, and (ii) the published international application lists Randolph E. Maxwell as inventor while the declaration filed 26 November 2004 list Randolph Maxwell as inventor. As to (i), petitioner indicates that each inventor executed a complete declaration but that petitioner discarded the non-signatory pages from each of the executed declarations so as not to submit redundant pages. However, such a composite declaration is not acceptable. A copy of the entire declaration submitted to each applicant for signing must be provided. **As parts of each declaration have been discarded, a new declaration or declarations of the inventors must be provided.** Thus, item (4) has not been met. As to item (ii), petitioner's explanation is accepted.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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16 AUG 2005

#13

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In re Application of CARDENAS et al. Application No.: 10/488,799 PCT No.: PCT/US02/28087 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-#2 For: ELECTRICAL BOX WITH DEFLECTABLE SIDE WALLS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 31 May 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 12 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 07 February 2005, applicants submitted a renewed petition under 37 CFR 1.47(a). On 01 March 2005, a decision dismissing the petition was mailed to applicant indicating that a copy of the application papers including the specification, claims and drawings had not been sent to the nonsigning inventor and with regard to the declaration, a composite declaration was submitted and was unacceptable. Petitioner was advised that since parts of each declaration were discarded, a new declaration or declarations of the inventors must be provided.

On 31 May 2005, a renewed petition was filed along with newly executed declarations.

DISCUSSION

As previously indicated, 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.

As previously noted, items (1) and (3) have been satisfied.

Regarding item (2), a first hand statement of facts by Joan Lewis was provided. Ms. Lewis states that on 22 April 2005 she sent a copy of the instant application papers, declaration and power of attorney to all inventors including Mr. Patin via United States Postal Service (USPS) Certified Mail/Return Receipt. A copy of the return receipt dated 28 April 2005 signed by Mr. Patin accompanied Ms. Lewis's statement, is evidence of and confirms Mr. Patin's receipt of the application papers. Thus, it can be concluded that Mr. Patin received the 22 April 2005 communication including a copy of the application papers and by his conduct, is refusing to sign the application. Thus, item (2) has now been met.

Regarding item (4), the newly executed declarations of inventors submitted with the renewed petition are in compliance with 37 CFR 1.497(a)-(b), with the exception of the declaration executed by Jens Bolleyer. Mr. Bolleyer's declaration, which was previously executed declaration and submitted is not acceptable for the reasons set forth in the decisions dated 12 January 2005 and 01 March 2005. Either a newly executed declaration by Mr. Bolleyer must be submitted or a petition under 37 CFR 1.47(a) should be submitted on behalf of Mr. Bolleyer. See MPEP Section 409.03(d) regarding the "diligent efforts" required to conclude that an inventor cannot be located or reached. Thus, item (4) has not been met at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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CMK/BM

20 OCT 2005

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In re Application of	:	
CARDENAS et al.	:	
Application No.: 10/488,799	:	DECISION
PCT No.: PCT/US02/28087	:	
Int. Filing Date: 05 September 2002	:	ON RENEWED PETITION
Priority Date: 06 September 2001	:	
Attorney Docket No.: D.1576-#2	:	UNDER 37 CFR 1.47(a)
For: ELECTRICAL BOX WITH DEFLECTABLE	:	
SIDE WALLS	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 19 September 2005 in the United States Patent and Trademark Office (USPTO) requesting acceptance of the application without the signatures of joint inventors Kevin Patin and Jens Bolleyer.

BACKGROUND

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 12 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 07 February 2005, applicants submitted a renewed petition under 37 CFR 1.47(a). On 01 March 2005, a decision dismissing the petition was mailed to applicant indicating that a copy of the application papers including the specification, claims and drawings had not been sent to the

nonsigning inventor and with regard to the declaration, a composite declaration was submitted and was unacceptable. Petitioner was advised that since parts of each declaration were discarded, a new declaration or declarations of the inventors must be provided.

On 31 May 2005, a renewed petition was filed along with newly executed declarations. On 16 August 2005, a decision was mailed to applicant indicating that Petitioner had demonstrated Mr. Patin's refusal to sign the application papers. However, the petition was dismissed because a new declaration executed by inventor Jens Bolleyer was required, or in the alternative, a petition under 37 CFR 1.47(a) should be submitted on behalf of Mr. Bolleyer.

On 16 September 2005, a renewed petition under 37 CFR 1.47(a) was filed requesting acceptance of the application without the signature of Jens Bolleyer.

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.

Item (1), the petition fee, was previously satisfied. The last known address of the non-signing inventor, Jens Bolleyer was provided, satisfying Item (3) above. Regarding Item (4), the executed declarations of inventors submitted with the renewed petition on 31 May 2005 are in compliance with 37 CFR 1.497(a)-(b). In lieu of Mr. Bolleyer's declaration, Petitioner has now submitted the instant petition under 37 CFR 1.47(a) asserting that Mr. Bolleyer refuses to sign the application.

With regard to Item (2), a statement of facts by Herman Cardenas was provided. Mr. Cardenas indicates that on 22 April 2005, Joan Lewis sent a copy of the instant application papers, declaration and power of attorney to Mr. Bolleyer via United States Postal Service (USPS) first class mail with a follow-letter dated 20 May 2005. However, Mr Cardenas's hearsay statement is insufficient to prove that Mr. Bolleyer refuses to sign the application. A statement of first hand knowledge is needed. Furthermore, details regarding other diligent efforts to contact Mr. Bolleyer via mail, telephone and e-mail were not provided.

Section 409.03(d) of the MPEP states, in pertinent 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 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.

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.

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 also states in his renewed petition that a declaration signed by Mr. Bolleyer was previously submitted on 26 November 2004 . As stated in the 12 January 2005 decision, that declaration executed by Jens Bolleyer was unacceptable because the declaration was not in compliance with 37 CFR 1.497(a)-(b). The declaration included one "[Page 1 of 2]", two "[Page 2 of 2]", three "Supplemental Sheet, Page 1 of 2", and one "Supplemental Sheet, Page 2 of 2". This suggested that all pages of the declaration were not present at the time of execution for each

inventor, thus rendering the execution improper. Petitioner was advised that a copy of the entire declaration must be submitted to applicant(s) for signing; that each executed declaration must identify all of the inventors and the citizenship of all of the inventors and that each submitted declaration must be complete, even if executed by only one of the inventors.

For the reasons set forth above, it cannot be concluded that Mr. Bolleyer received the 22 April 2005 communication including a copy of the application papers and by his conduct, is refusing to sign the application at this time. Thus, item (2) has not been met.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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John E. Toupal
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In re Application of	:	
CARDENAS et al.	:	
Application No.: 10/488,799	:	DECISION
PCT No.: PCT/US02/28087	:	
Int. Filing Date: 05 September 2002	:	
Priority Date: 06 September 2001	:	
Attorney Docket No.: D.1576-#2	:	
For: ELECTRICAL BOX WITH DEFLECTABLE	:	
SIDE WALLS	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 19 December 2005 in the United States Patent and Trademark Office (USPTO) requesting the acceptance of the application without the signatures of joint inventors Kevin Patin and Jens Bolleyer.

BACKGROUND

The lengthy petition history of this application related in earlier decisions is incorporated by reference. The 20 October 2005 decision indicated that on 16 August 2005, Petitioner had demonstrated Kevin Patin's refusal to sign the application papers. However, the petition was dismissed because a new declaration executed by inventor Jens Bolleyer was required. Petitioner was advised that In the alternative, a petition under 37 CFR 1.47(a) on behalf of Mr. Bolleyer should be submitted. The renewed petition filed on 16 September 2005 was dismissed as a first hand statement of facts detailing Mr. Bolleyer's refusal was not provided and required.

On 19 December 2005, applicant filed a response to the 20 October 2005 decision along with a newly executed declaration by previously non-signing inventor Jens Bolleyer.

DISCUSSION

Petitioner filed a renewed petition along with a declaration executed by Mr. Bolleyer. The

renewed petition under 37 CFR 1.47(a) is considered moot as a declaration executed by the previously unavailable inventor has now been submitted and is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) with regard to Mr. Bolleyer is considered **MOOT**. The declaration executed by the joint inventor and submitted on 19 December 2005 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

With the submission of the aforesaid declaration and for the reasons stated in the previous decisions, Petitioner has now satisfied the requirements of 37 CFR §1.47(a) and the petition with respect to Kevin Patin is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 19 December 2005. The application has an international filing date of 05 September 2002 under 35 U.S.C. 363, and a date of 19 December 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

The application is being returned to the United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

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In re Application of CARDENAS et al. Application No.: 10/488,799 PCT No.: PCT/US02/28087 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-#2 For: ELECTRICAL BOX WITH DEFLECTABLE SIDE WALLS	DECISION

Dear Mr. Patin:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

John E. Toupal
116 Concord Street
Framingham MA 01702

23 SEP 2004

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Mara E. Liepa
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P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of	:	
MCCLURKEN et al	:	DECISION ON
Application No.: 10/488,801	:	
PCT Application No.: PCT/US02/28488	:	
Int. Filing Date: 05 September 2002	:	PETITION UNDER
Priority Date: 05 September 2001	:	
Attorney's Docket No.: 13045.37USWO	:	
For: FLUID-ASSISTED MEDICAL DEVICES,	:	37 CFR 1.48(b)
AND METHODS	:	

This response is to the "PETITION UNDER 37 CFR 1.48(b)" submitted on 04 May 2004.

BACKGROUND

On 05 September 2002, applicants filed international application No. PCT/US02/28488 designating the United States and claiming a priority date of 05 September 2001. Accordingly, the deadline for entry into the national stage by paying the basic national fee in the U.S. expired as of midnight of 05 March 2004.

On 04 March 2004, 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, a petition under 37 CFR 1.48(b) because due to the cancellation of certain claims, the contributions of inventor David Lipson is no longer being claimed as co-inventor in the aforementioned application.

DISCUSSION

A submission under 37 CFR 1.48(b) (nonprovisional application- fewer inventors due to amendment or cancellation of claims) must include:

(1) a request signed by a party set forth in §1.33(b) to correct the inventorship that identifies the named inventor or inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and

(2) the processing fee set forth in § 1.17(i).

A review of the application file suggests that at the time of filing the international application David Lipson was correctly listed as a joint inventors of the invention. The submission under 37 CFR 1.48(b) is due to the deletion of certain claims attributed to the inventor. Specifically, the preliminary amendment submitted on 04 May 2004 that deletes claims 1-31, 42, 44-45, 47-52, 57-59, 62, 68-70,72-87,90, 93-96, 100-103,105, 107, 109, and 111-137. Under this situation, applicants are required to file an oath or declaration with the signatures of all the inventors that are listed in the international application in order to enter the national stage. In this instance, David Lipson has not been listed in the declaration and the declaration has not been executed so that the application so it has not met the requirements under 37 CFR 371 as to be considered a nonprovisional application under 37 CFR §1.9.

Accordingly, after the requirements under 35 USC 371 are satisfied, applicants may petition under 37 CFR1.48(b) to correct inventorship as a consequence of claim amendments.

CONCLUSION

For the reasons above, the request under 37 CFR 1.48(b) is held in **ABEYANCE** until the requirements under 35 USC 371 are met.

If reconsideration on the merits of this petition is desired, a proper reply is an executed oath or declaration with the signatures of all the inventors that are listed in the international application must be filed within TWO (2) MONTHS from the mail date of this decision. The failure to provide the proper reply will result in Abandonment of the application. 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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Leonard Smith
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UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
10/488,804	03/04/2004	Keita Nagano	4649/PCT	9897

21553 7590 11/08/2007
FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

EXAMINER
FELTON, AILEEN BAKER

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
11/08/2007	PAPER

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

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

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Mailed: 11-8-07

In re application of	:	
Nagano et al.	:	DECISION ON
Serial No. 10/488,804	:	PETITION
Filed: March 4, 2004	:	
For: Method of Manufacturing Aluminum Flake Pigment, Aluminum Flake Pigment Obtained by the Manufacturing Method and Grinding Media Employed for the Manufacturing Method.	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 for Review and Withdrawal of Final Status of Office Action mailed on October 4, 2007. The office Action is the first Office Action following applicant's Request for Continued Examination of July 12, 2007. Applicant filed the RCE on July 12, 2007, to give the Examiner the opportunity to carry out further search and consideration.

On November 2, 2007, the instant petition under 37 CFR 1.181 was filed.

DECISION

The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

A first Office action in a continuing or substitute application may not be made final if it contains a new ground of rejection necessitated by the amendments to 35 U.S.C. 102(e) by the Intellectual Property and High Technology Technical Amendments of 2002 (Pub. L. 107-273, 116 Stat. 1758 (2002)). However, it would not be proper to make final a first Office action where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

Accordingly, the instant petition is **GRANTED.**

The finality of the office action of October 4, 2007 is withdrawn.

Jacqueline M. Stone/ac

Jacqueline M. Stone, Director
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03 FEB 2005

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David W. Highet
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In re Application of HWANG Application No.: 10/488,811 PCT No.: PCT/US02/20333 Int. Filing Date: 27 June 2002 Priority Date: 09 July 2001 Atty. Docket No.: P5287 For: NEEDLE SHIELD ASSEMBLY HAVING HINGED NEEDLE SHIELD AND FLEXIBLE CANNULA LOCK	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 04 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply form 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 provided the proper reply in the form of payment of the full, U.S. Basic National Fee. 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 (DO/EO/US) for treatment in accordance with this decision.

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of
HUANG et al.
Application No.: 10/488,811
Attorney Docket No.: P-5287

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2006 to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 3, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 3763.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3286.

Cynthia M. Kratz
Attorney Advisor

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OFFICE OF PETITIONS

In re Application of	:	
Karl W. Mollison, et al.	:	
Application No. 10/488,815	:	DECISION GRANTING PETITION
Filed: March 5, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6195US03	:	

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 February 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Fang et al. :
Application Number: 10/488820 : ON PETITION
Filing Date: 03/05/2004 :
Attorney Docket Number: TS6730 :
US :

This is a decision on the petition under 1.137(b),[1] filed on 18 May, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 3 February, 2007, for failure to timely respond to the non-final Office action mailed on 2 November, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR

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

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

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

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

1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners have filed an amendment as the required reply.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. Petitioner should file a Change of Correspondence Address if the correspondence address needs to be updated.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The four (4)-month extension request filed on 18 May, 2007, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on 2 November, 2006, and therefore is unnecessary. The extension of time fee paid on 18 May, 2007, will be credited to counsel's deposit account as authorized.

The application is being referred to Technology Center Art Unit 1714 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

PAULA D. MORRIS
THE MORRIS LAW FIRM, P.C.
10260 WESTHEIMER, SUITE 360
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---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

14 JAN 2005

#7

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John E Toupal
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In re Application of	:	
CARDENAS et al.	:	
Application No.: 10/488,823	:	DECISION
PCT No.: PCT/US02/28388	:	
Int. Filing Date: 05 September 2002	:	
Priority Date: 06 September 2001	:	
Attorney Docket No.: D.1576-C	:	
For: STRUCTURED WIRING BOX	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 26 November 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28388, which designated the United States and claimed a priority date of 06 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (06 March 2004 being a Saturday).

On 05 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 29 September 2004, applicants filed a petition/fee for a one month extension of time.

On 01 November 2004, applicants filed a petition/fee for a two month extension of time.

On 26 November 2004, applicants filed the instant petition under 37 CFR 1.47(a) which

was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

DISCUSSION

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

As to item (1), the petition fee of $200 under 27 CFR 1.17(g) has been charged to Deposit Account 20-1375. Thus, item (1) has been satisfied.

Item (3) has been satisfied.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. The letter to Mr. Patin suggests that only a Power of Attorney and a declaration of inventors for the above-identified application were sent to him. Additionally, it appears that only one letter was sent to Mr. Patin and that no follow-up, e.g., through another letter or a phone call, to this letter. Follow-up is required to establish that Mr. Patin refuses to execute the application. (It appears from the copy of the certified mail receipt that Mr. Patin has been found. Thus, applicants must establish a refusal to sign.)

Item (4) has not been satisfied. The declaration filed 26 November 2004 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes one "[Page 1 of 2]", two "[Page 2 of 2]", three "Supplemental Sheet, Page 1 of 2", and one "Supplemental Sheet, Page 2 of 2". This suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to

applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors. Also, the published international application lists Randolph E. Maxwell as inventor while the declaration filed 26 November 2004 list Randolph Maxwell as inventor. Regarding these differences in names, a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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12 APR 2005

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In re Application of CARDENAS et al. Application No.: 10/488,823 PCT No.: PCT/US02/28388 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-C For: STRUCTURED WIRING BOX	: : : : : : : :	DECISION

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed via facsimile transmission on 11 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28388, which designated the United States and claimed a priority date of 06 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (06 March 2004 being a Saturday).

On 05 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 29 September 2004, applicants filed a petition/fee for a one month extension of time.

On 01 November 2004, applicants filed a petition/fee for a two month extension of time.

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 14 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to

execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 11 March 2005, applicants submitted the instant 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(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.

As noted in the decision mailed 14 January 2005, items (1) and (3) have been satisfied.

Regarding item (2), the decision mailed 14 January 2005 indicated that it was not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin and that some sort of follow-up to the letter sent to Mr. Patin was required in order to establish that he refuses to execute the application. The renewed petition indicates that a follow-up letter was sent to Mr. Patin on 08 November 2004 and a follow-up telephone call was made to Mr. Patin's residence on 09 November 2004. The letter does not state that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. Regarding the telephone call, a statement of facts by a person having firsthand knowledge detailing Mr. Patin's refusal has not been provided. Additionally, it is still not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. Thus, item (2) has not been met.

Regarding item (4), the decision mailed 14 January 2005 indicated that the declaration of inventors was not in compliance with 37 CFR 1.497(a)-(b) because (i) each submitted declaration must be complete, even if executed by only one of the inventors, and (ii) the published international application lists Randolph E. Maxwell as inventor while the declaration filed 26 November 2004 list Randolph Maxwell as inventor. As to (i), petitioner indicates that each inventor executed a complete declaration but that petitioner discarded the non-signatory pages from each of the executed declarations so as not to submit redundant pages. However, such a composite declaration is not acceptable. A copy of the entire declaration submitted to each applicant for signing must be provided. **As parts of each declaration have been discarded, a new declaration or declarations of the inventors must be provided.** Thus, item (4) has not been met. As to item (ii), petitioner's explanation is accepted.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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16 AUG 2005

#11

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In re Application of CARDENAS et al. Application No.: 10/488,823 PCT No.: PCT/US02/28388 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-C For: STRUCTURED WIRING BOX	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 05 July 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 14 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 11 March 2005, applicants submitted a renewed petition under 37 CFR 1.47(a). On 12 April 2005, a decision dismissing the petition was mailed to applicant indicating that a copy of the application papers including the specification, claims and drawings had not been sent to the nonsigning inventor and with regard to the declaration, a composite declaration was submitted and was unacceptable. Petitioner was advised that since parts of each declaration were discarded, a new declaration or declarations of the inventors must be provided.

On 05 July 2005, a renewed petition was filed along with newly executed declarations.

DISCUSSION

As previously indicated, 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.

As previously noted, items (1) and (3) have been satisfied.

Regarding item (2), a first hand statement of facts by Joan Lewis was provided. Ms. Lewis states that on 26 May 2005 she sent a copy of the instant application papers, declaration and power of attorney to all inventors including Mr. Patin via United States Postal Service (USPS) Certified Mail/Return Receipt. However, the return receipt for Mr. Patin's had not been received by the law firm. Thus, it cannot be concluded that Mr. Patin received the 26 May 2005 communication including a copy of the application papers and is refusing to sign the application. It is still not clear that a copy of the application papers including the specification, claims and drawings were delivered to Mr. Patin. Thus, item (2) has not been met.

Regarding item (4), the declaration of inventors submitted with the renewed petition is not in compliance with 37 CFR 1.497(a)-(b) because the declaration has been altered; the address for inventor Herman Cardenas has been X'd out. The USPTO does not accept a declaration that has been altered. Section 602.01 of the MPEP states the following:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

The changes made in the declaration were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by inventor Herman Cardenas is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

With regard to inventor Jens Bolleyer's declaration, the previously executed declaration is not acceptable for the reasons set forth in the decisions dated 14 January 2005 and 12 April 2005. Either a newly executed declaration by Mr. Bolleyer must be submitted or a petition under 37 CFR 1.47(a) should be submitted on behalf of Mr. Bolleyer. See MPEP Section 409.03(d) regarding the "diligent efforts" required to conclude that an inventor cannot be located or reached. Thus, item (4) has not been met.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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20 OCT 2005

#10

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John E. Toupal
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In re Application of	:	
CARDENAS et al.	:	
Application No.: 10/488,823	:	DECISION
PCT No.: PCT/US02/28388	:	
Int. Filing Date: 05 September 2002	:	
Priority Date: 06 September 2001	:	
Attorney Docket No.: D.1576-C	:	
For: STRUCTURED WIRING BOX	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 21 September 2005 in the United States Patent and Trademark Office (USPTO) requesting the acceptance of the application without the signatures of joint inventors Kevin Patin and Jens Bolleyer.

BACKGROUND

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 14 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 11 March 2005, applicants submitted a renewed petition under 37 CFR 1.47(a). On 12 April 2005, a decision dismissing the petition was mailed indicating that it was not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin and that the declaration of inventors was not in compliance with 37 CFR 1.497(a)-(b).

On 07 July 2005, a renewed petition was filed along with newly executed declarations. On 16 August 2005, a decision dismissing the petition was mailed to applicant indicating that petitioner had not demonstrated that Mr. Patin received a complete copy of the application papers and refused to sign the application. Moreover, the declaration had been altered and was unacceptable.

On 21 September 2005, petitioner filed a renewed petition.

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.

As previously noted, Items (1) and (3) have been satisfied.

Regarding item (2), counsel indicates that the "original mailing envelope, unopened, with the original 26 May 2005 letter and enclosures which included a copy of the instant application papers [specification, claims and drawings]...subsequently returned as 'unclaimed'" to his law office on 11 July 2005. The original unopened mailing envelope is not found among the papers submitted. Notwithstanding its omission, a returned mailing does not demonstrate Mr. Patin's refusal to sign the application. It is possible that Mr. Patin was on vacation or away from home or possibly is no longer available at the last known address. Petitioner has not provided sufficient evidence to conclude that Mr. Patin refuses to sign the application. Thus, item (2) has not been met.

Section 409.03(d) states, in pertinent 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. 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 in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

With respect to Item (2) and Mr. Bolleyer's refusal, a statement of facts by Herman Cardenas was provided. Mr. Cardenas indicates that on 22 April 2005, Joan Lewis sent a copy of the instant application papers, declaration and power of attorney to Mr. Bolleyer via United States Postal Service (USPS) first class mail with a follow-letter dated 26 May 2005. However, Mr Cardenas's hearsay statement is insufficient to prove that Mr. Bolleyer refuses to sign the application. A statement of first hand knowledge is needed. Furthermore, details regarding other diligent efforts to contact Mr. Bolleyer via mail, telephone and e-mail were not provided.

Regarding item (4), the declaration of Herman Cardenas filed on 21 September 2005 is acceptable. The declarations executed by joint inventors Jeffrey Wilson, Robert Marvin and Randolph Maxwell were submitted on 05 July 2005 and are acceptable.

However, a complete declaration directed to this application and executed by Jens Bolleyer has not been submitted. Mr. Bolleyer's declaration submitted on 05 July 2005 was identical to the declaration submitted on 26 November 2004. The declaration was not in compliance with 37 CFR 1.497(a)-(b) because the submitted declaration was a composed of duplicate pages. Such composite declaration is not acceptable. As Petitioner was previously advised, either a newly executed declaration executed by Mr. Bolleyer must be submitted or a petition under 37 CFR 1.47(a) should be submitted on behalf of Mr. Bolleyer. See MPEP Section 409.03(d) regarding the 'diligent efforts' required to conclude that an inventor cannot be reached or located. A copy of the entire declaration submitted to the inventor for signing must be provided. Thus, item (4) has not been met at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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#15

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05 JAN 2006

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In re Application of CARDENAS et al. Application No.: 10/488,823 PCT No.: PCT/US02/28388 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-C For: STRUCTURED WIRING BOX	DECISION

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed via facsimile transmission on 20 December 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

The lengthy petition history of this application related in earlier decisions is incorporated by reference. The 20 October 2005 decision indicated that Petitioner had not yet demonstrated Kevin Patin's refusal to sign the application papers and that a new declaration executed by inventor Jens Bolleyer or a petition under 37 CFR 1.47(a) on behalf of Mr. Bolleyer was required.

On 20 December 2005, applicant filed a response to the 20 October 2005 decision along with a newly executed declaration by previously non-signing inventor Jens Bolleyer.

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.

As previously noted, with regard to non-signing inventor Kevin Patin, items (1) and (3) have been satisfied.

Regarding item (2), Petitioner provided the first-hand statement of facts by Joan Lewis, paralegal for counsel of record. It is now clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin via a letter delivered to Mr. Patin's last known address on 3 December 2005. A copy of the USPS Track and Confirm Statement was presented as evidence of delivery. Thus, item (2) has now been met.

Regarding item (4), a declaration executed by joint inventor Jens Bolleyer has been submitted and is in compliance with 37 CFR 1.497(a) and (b). Each joint inventor has executed a complete declaration on behalf of himself and non-signing inventor Kevin Patin. Thus, item (4) is now met.

CONCLUSION

For the reasons set forth above, Petitioner has now satisfied the requirements of 37 CFR §1.47(a) and the petition with respect to Kevin Patin is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 20 December 2005. The application has an international filing date of 05 September 2002 under 35 U.S.C. 363, and a date of 20 December 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

The application is being returned to the United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

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05 JAN 2006

KEVIN PATIN
651 EL PARQUE
EL PASO, TX 79912

In re Application of CARDENAS et al. Application No.: 10/488,823 PCT No.: PCT/US02/28388 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-C For: STRUCTURED WIRING BOX	: : : : : : : :	DECISION

Dear Mr. Patin:

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

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

Cynthia M. Kratz

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NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of	:	
Lianxin Dai, et al.	:	
Application No. 10/488,826	:	NOTICE
Filed: May 4, 2004	:	
Attorney Docket No. 04703/0200956-US0		

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**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition slightly differs from the address of record. If appropriate, 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.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DARBY & DARBY P.C.
P.O. BOX 5257
New York NY 10150-5257

15 SEP 2004

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In re Application of KREHAN et al	:	
U.S. Application No.: 10/488,828	:	
PCT Application No.: PCT/EP02/09999	:	
Int. Filing Date: 06 September 2002	:	DECISION
Priority Date Claimed: 06 September 2001	:	
Attorney Docket No.: 226906	:	
For: METHOD AND KIT FOR DIAGNOSING OR CONTROLLING THE TREATMENT OF BREAST CANCER	:	

This is in response to applicant's "Response to Notification of Missing Requirements" filed 11 August 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 06 September 2002, applicant filed international application PCT/EP02/09999, which claimed priority of an earlier Germany application filed 06 September 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 March 2004.

On 05 March 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 19 July 2004, applicant purportedly filed an executed declaration.

On 26 July 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 11 August 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 19 July 2004. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 19 July 2004, serves as *prima facie* evidence that the declaration was received by the USPTO on 19 July 2004.

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 26 July 2004 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 06 September 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 July 2004.

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

Bryan Tung
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PCT Legal Office

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27 JAN 2005

#9

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In re Application of	:	
CARDENAS et al.	:	
Application No.: 10/488,833	:	DECISION
PCT No.: PCT/US02/28093	:	
Int. Filing Date: 05 September 2002	:	
Priority Date: 06 September 2001	:	
Attorney Docket No.: D.1576-#3	:	
For: EXPANDABLE STRUCTURED WIRING BOX	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 26 November 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28093, which designated the United States and claimed a priority date of 06 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (06 March 2004 being a Saturday).

On 05 March 2004, 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 17 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 29 September 2004, applicants filed a petition/fee for a one month extension of time.

On 16 November 2004, applicants filed a petition/fee for a two month extension of time.

On 26 November 2004, applicants filed the instant petition under 37 CFR 1.47(a) which

was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

DISCUSSION

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

As to item (1), the petition fee of $200 under 27 CFR 1.17(g) has been charged to Deposit Account 20-1375. Thus, item (1) has been satisfied.

Item (3) has been satisfied.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. The letter to Mr. Patin suggests that only a Power of Attorney and a declaration of inventors for the above-identified application were sent to him. Additionally, it appears that only one letter was sent to Mr. Patin and that no follow-up, e.g., through another letter or a phone call, to this letter. Follow-up is required to establish that Mr. Patin refuses to execute the application. (It appears from the copy of the certified mail receipt that Mr. Patin has been found. Thus, applicants must establish a refusal to sign.)

Item (4) has not been satisfied. The declaration filed 26 November 2004 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes one "[Page 1 of 2]", two "[Page 2 of 2]", three "Supplemental Sheet, Page 1 of 2", and one "Supplemental Sheet, Page 2 of 2". This suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to

applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors. Also, the published international application lists Randolph E. Maxwell as inventor while the declaration filed 26 November 2004 list Randolph Maxwell as inventor. Regarding these differences in names, a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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12 APR 2005

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In re Application of CARDENAS et al. Application No.: 10/488,833 PCT No.: PCT/US02/28093 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-#3 For: EXPANDABLE STRUCTURED WIRING BOX	DECISION

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed via facsimile transmission on 18 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 September 2002, applicants filed international application PCT/US02/28093, which designated the United States and claimed a priority date of 06 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2004 (06 March 2004 being a Saturday).

On 05 March 2004, 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 17 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 29 September 2004, applicants filed a petition/fee for a one month extension of time.

On 16 November 2004, applicants filed a petition/fee for a two month extension of time.

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 27 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of

the non-signing joint inventor had not been provided.

On 07 February 2005, applicants filed a communication which included several letters and a declaration referencing provisional application 60/317,534. In a communication mailed on 24 February 2005, the USPTO advised applicant that the submission was not responsive to the decision mailed on 27 January 2005.

On 18 March 2005, applicants submitted the instant 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(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.

As noted in the decision mailed 27 January 2005, items (1) and (3) have been satisfied.

Regarding item (2), the decision mailed 27 January 2005 indicated that it was not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin and that some sort of follow-up to the letter sent to Mr. Patin was required in order to establish that he refuses to execute the application. The renewed petition indicates that a follow-up letter was sent to Mr. Patin on 08 November 2004 and a follow-up telephone call was made to Mr. Patin's residence on 09 November 2004. The letter does not state that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. Regarding the telephone call, a statement of facts by a person having firsthand knowledge detailing Mr. Patin's refusal has not been provided. Additionally, it is still not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin. Thus, item (2) has not been met.

Regarding item (4), the decision mailed 27 January 2005 indicated that the declaration of inventors was not in compliance with 37 CFR 1.497(a)-(b) because (i) each submitted declaration must be complete, even if executed by only one of the inventors, and (ii) the published international application lists Randolph E. Maxwell as inventor while the declaration filed 26 November 2004 list Randolph Maxwell as inventor. As to (i), petitioner indicates that each inventor executed a complete declaration but that petitioner discarded the non-signatory pages from each of the executed declarations so as not to submit redundant pages. However, such a composite declaration is not acceptable. A copy of the entire declaration submitted to each applicant for signing must be provided. **As parts of each declaration have been discarded, a new declaration or declarations of the inventors must be provided.** Thus, item (4) has not been met. As to item (ii), petitioner's explanation is accepted.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional

petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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16 AUG 2005

#15

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In re Application of CARDENAS et al. Application No.: 10/488,833 PCT No.: PCT/US02/28093 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-#3 For: EXPANDABLE STRUCTURED WIRING BOX	DECISION

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 05 July 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 27 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 07 February 2005, applicants filed a communication which included several letters and a declaration referencing provisional application 60/317,534. In a communication mailed on 24 February 2005, the USPTO advised applicant that the submission was not responsive to the decision mailed on 27 January 2005.

On 18 March 2005, applicants submitted a renewed petition under 37 CFR 1.47(a). On 12 April 2005, a decision dismissing the petition was mailed to applicant indicating that a copy of the application papers including the specification, claims and drawings had not been sent to the nonsigning inventor and with regard to the declaration, a composite declaration was submitted and was unacceptable. Petitioner was advised that since parts of each declaration were discarded, a new declaration or declarations of the inventors must be provided.

On 05 July 2005, a renewed petition was filed along with newly executed declarations.

DISCUSSION

As previously indicated, 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.

As previously noted, items (1) and (3) have been satisfied.

Regarding item (2), a first hand statement of facts by Joan Lewis was provided. Ms. Lewis states that on 27 May 2005 she sent a copy of the instant application papers, declaration and power of attorney to all inventors including Mr. Patin via United States Postal Service (USPS) Certified Mail/Return Receipt. However, the return receipt for Mr. Patin's had not been received by the law firm. Thus, it cannot be concluded that Mr. Patin received the 27 May 2005 communication including a copy of the application papers and is refusing to sign the application. It is still not clear that a copy of the application papers including the specification, claims and drawings were delivered to Mr. Patin. Thus, item (2) has not been met.

Regarding item (4), the declaration of inventors submitted with the renewed petition is not in compliance with 37 CFR 1.497(a)-(b) because the declaration has been altered; the address for inventor Herman Cardenas has been X'd out. The USPTO does not accept a declaration that has been altered. Section 602.01 of the MPEP states the following:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

The changes made in the declaration were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by inventor Herman Cardenas is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

With regard to inventor Jens Bolleyer's declaration, the previously executed declaration is not acceptable for the reasons set forth in the decisions dated 14 January 2005 and 12 April 2005. Either a newly executed declaration by Mr. Bolleyer must be submitted or a petition under 37 CFR 1.47(a) should be submitted on behalf of Mr. Bolleyer. See MPEP Section 409.03(d) regarding the "diligent efforts" required to conclude that an inventor cannot be located or reached. Thus, item (4) has not been met.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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CMK/BM

20 OCT 2005

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In re Application of CARDENAS et al. Application No.: 10/488,833 PCT No.: PCT/US02/28093 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-#3 For: EXPANDABLE STRUCTURED WIRING BOX	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 21 September 2005 in the United States Patent and Trademark Office (USPTO) requesting the acceptance of the application without the signature of joint inventor Kevin Patin.

BACKGROUND

On 26 November 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a statement of facts by Herman Cardenas, a copy of a letter sent to nonsigning joint inventor Kevin Patin, and a copy of a certified mail return receipt.

On 27 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 07 February 2005, applicants filed a communication which included several letters and a declaration referencing provisional application 60/317,534. In a communication mailed on 24 February 2005, the USPTO advised applicant that the submission was not responsive to the decision mailed on 27 January 2005.

On 18 March 2005, applicants submitted a renewed petition under 37 CFR 1.47(a). On 12 April 2005, a decision dismissing the petition was mailed to applicant indicating that a copy of the application papers including the specification, claims and drawings had not been sent to the nonsigning inventor Patin and with regard to the declaration, a composite declaration was submitted and was unacceptable. Petitioner was advised that since parts of each declaration were discarded, a new declaration or declarations of the inventors must be provided.

On 05 July 2005, a renewed petition was filed along with newly executed declarations. On 16 August 2005, a decision dismissing the petition was mailed indicating that (1) it was not clear that a copy of the application papers including the specification, claims and drawings were

delivered to Mr. Patin and (2) the declaration executed by Jens Bolleyer was not acceptable for the reasons set forth in the decisions dated 14 January 2005 and 12 April 2005. Petitioner was advised that either a newly executed declaration by Mr. Bolleyer must be submitted or a petition under 37 CFR 1.47(a) should be submitted on behalf of Mr. Bolleyer.

On 21 September 2005, a renewed petition under 37 CFR 1.47(a) was filed.

DISCUSSION

As previously indicated, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1) and (3) have been satisfied.

Regarding item (2), counsel indicates that the "original mailing envelope, unopened, with the original 27 May 2005 letter and enclosures which included a copy of the instant application papers [specification, claims and drawings]...subsequently returned as 'unclaimed'" to his law office on 16 June 2005. The original unopened mailing envelope is not found among the papers submitted. Notwithstanding its omission, a returned mailing does not demonstrate Mr. Patin's refusal to sign the application. It is possible that Mr. Patin was on vacation or away from home or possibly no longer available at the last known address. Petitioner has not provided sufficient evidence to conclude that Mr. Patin refuses to sign the application.

Section 409.03(d) states, in pertinent 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. 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 in the statement of facts. It is important that the statement contain facts as opposed to conclusions.*

As there was no such demonstration of Mr. Patin's refusal to sign the application papers, Item (2) has not been met.

Regarding Item (4), the declaration of inventor Herman Cardenas filed on 21 September 2005 is acceptable. The declarations executed by joint inventors Jeffrey Wilson, Robert Marvin and Randolph Maxwell were submitted on 05 July 2005 and are acceptable.

However, a complete declaration directed to this application and executed by Jens Bolleyer has not been submitted. Mr. Bolleyer's declaration submitted on 05 July 2005 was

identical to the declaration submitted on 26 November 2004. The declaration was not in compliance with 37 CFR 1.497(a)-(b) because the submitted declaration was a composed of duplicate pages. Such composite declaration is not acceptable. As Petitioner was previously advised, either a newly executed declaration executed by Mr. Bolleyer must be submitted or a petition under 37 CFR 1.47(a) should be submitted on behalf of Mr. Bolleyer. See MPEP Section 409.03(d) regarding the 'diligent efforts' required to conclude that an inventor cannot be reached or located. A copy of the entire declaration submitted to the inventor for signing must be provided. Thus, item (4) has not been met at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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#19

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06 JAN 2006

John E Toupal
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In re Application of CARDENAS et al. Application No.: 10/488,833 PCT No.: PCT/US02/28093 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-#3 For: EXPANDABLE STRUCTURED WIRING BOX	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed on 20 December 2005 in the United States Patent and Trademark Office (USPTO) requesting the acceptance of the application without the signature of joint inventor Kevin Patin.

BACKGROUND

The lengthy petition history of this application related in earlier decisions is incorporated by reference. The 20 October 2005 decision indicated that Petitioner had not yet demonstrated Kevin Patin's refusal to sign the application papers and that a new declaration executed by inventor Jens Bolleyer or a petition under 37 CFR 1.47(a) on behalf of Mr. Bolleyer was required.

On 20 December 2005, applicant filed a response to the 20 October 2005 decision along with a newly executed declaration by previously non-signing inventor Jens Bolleyer.

DISCUSSION

As previously indicated, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1) and (3) have been satisfied.

Regarding item (2), Petitioner provided the first-hand statement of facts by Joan Lewis, paralegal for counsel of record. It is now clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Patin via a letter delivered to Mr. Patin's last known address on 3 December 2005. A copy of the USPS Track and Confirm Statement was presented as evidence of delivery. Thus, item (2) has now been met.

Regarding item (4), a declaration executed by joint inventor Jens Bolleyer has been submitted and is in compliance with 37 CFR 1.497(a) and (b). Each joint inventor has executed a complete declaration on behalf of himself and non-signing inventor Kevin Patin. Thus, item (4) is now met.

CONCLUSION

For the reasons set forth above, Petitioner has now satisfied the requirements of 37 CFR §1.47(a) and the petition with respect to Kevin Patin is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 20 December 2005. The application has an international filing date of 05 September 2002 under 35 U.S.C. 363, and a date of 20 December 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

The application is being returned to the United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz

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06 JAN 2006

KEVIN PATIN
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In re Application of CARDENAS et al. Application No.: 10/488,833 PCT No.: PCT/US02/28093 Int. Filing Date: 05 September 2002 Priority Date: 06 September 2001 Attorney Docket No.: D.1576-#3 For: EXPANDABLE STRUCTURED WIRING BOX	DECISION

Dear Mr. Patin:

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

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

Cynthia M. Kratz

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LOIS A. SANTOPIETRO
DI DU PONT DE NEMOURS & COMPANY
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WILMINGTON DE 19898

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OFFICE OF PETITIONS

In re Application of	:	
Yueli Wang et al	:	
Application No. 10/488,844	:	DECISION GRANTING PETITION
Filed: March 4, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. EL0472USPCT1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of February 2, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1751.

Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Yueli Wang et al	:	
Application No. 10/488,844	:	DECISION GRANTING PETITION
Filed: March 4, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. EL0472USPCT1	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed March 9, 2007, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,020 extension of time submitted with the petition on September 26, 2007, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1751.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

18 NOV 2004

#8

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Christopher C. Dremann
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In re Application of	:	
RODRIGUES et al.	:	
U.S. Application No.: 10/488,852	:	
PCT No.: PCT/EP02/09668	:	DECISION ON PETITION
Int. Filing Date: 30 August 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 07 September 2001	:	
Attorney Docket No.: E-he-0021-US	:	
For: SPLICE PROTECTION SLEEVE FLANGE AND RING THEREFOR	:	

This decision is in response to applicants' "Petition Pursuant to 37 CFR 1.47(a)" filed 08 October 2004 to accept the application without the signature of joint-inventor, Yannick Schreiber. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 30 August 2002, applicants filed international application PCT/EP02/09668, which claimed a priority date of 07 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 March 2003. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 07 March 2004.

On 03 March 2004, 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 10 August 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 08 October 2004, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR

1.17(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 Yannick Schreiber 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 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 Yannick Schreiber. The "Declaration of Christoph Sturm" states that "Yannick Schreiber . . . did not reply to my request to sign and return the Declaration sent by E-mail on April 14, 2004 and September 4, 2004." The (electronic) mailing of the Declaration/Power of Attorney is not considered a complete copy of the application papers (specification, including claims, drawings, and oath or declaration). Further, petitioner 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 Yannick Schreiber, 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 Yannick Schreiber under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

Anthony Smith

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

07 JUN 2005

#10

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Christopher C. Dremann
P.O. Box 489
Hickory, North Carolina 28603

In re Application of	:	
RODRIGUES et al.	:	
U.S. Application No.: 10/488,852	:	
PCT No.: PCT/EP02/09668	:	
Int. Filing Date: 30 August 2002	:	DECISION ON PETITION
Priority Date: 07 September 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: E-he-0021-US	:	
For: SPLICE PROTECTION SLEEVE FLANGE AND RING THEREFOR	:	

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 18 February 2005 to accept the application without the signature of joint-inventor, Yannick Schreiber.

BACKGROUND

On 30 August 2002, applicants filed international application PCT/EP02/09668, which claimed a priority date of 07 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 March 2003. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 07 March 2004.

On 03 March 2004, 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 10 August 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 08 October 2004, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 18 November 2005, applicants' petition was dismissed without prejudice.

On 18 February 2005, applicants filed a 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(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.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Yannick Schreiber. The steps taken by Christoph Sturm are sufficient to show that Yannick Schreiber 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 30 August 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **08 October 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 for processing in accordance with this decision.

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

07 JUN 2005

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ALEXANDRIA, VA 22313-1450
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Yannick Schreiber
8bis rue de Bohardy
Montrevault 49110
France

In re Application of
RODRIGUES et al.
U.S. Application No.: 10/488,852
PCT No.: PCT/EP02/09668
Int. Filing Date: 30 August 2002
Priority Date: 07 September 2001
Attorney Docket No.: E-he-0021-US
For: SPLICE PROTECTION SLEEVE FLANGE AND RING THEREFOR

Dear Mr. Schreiber:

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

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

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

Counsel of Record:
Christopher C. Dremann
P.O. Box 489
Hickory, North Carolina 28603

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Harald Schneider	: DECISION ON REQUEST FOR
Patent Number	: 7583713	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/488,859	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **414** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,323,533 B2
Serial No. : 10/488,862
Inventor(s) : Becker et al.
Issued : January 29, 2008
Title : **CONJUGATED POLYMERS CONTAINING SPIROBIFLUORENE UNITS AND THE USE THEREOF**
Docket No. : **09931-00030-US**

Re: Request for Reconsideration

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.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B 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, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

ecw

16 DEC 2004

#5

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

In re Application of LUUKKALA, Mauri *et al* U.S. Application No.: 10/488,875 PCT No.: PCT/FI02/00760 Int. Filing Date: 23 September 2002 Priority Date: 24 September 2001 Attorney Docket No.: 0365-0590P For: PRECIPITATION/HAIL SENSOR AND METHOD FOR PRECIPITATION RATE MEASUREMENT	:	**DECISION** **UNDER** **37 CFR 1.42**

This decision is in response to declaration submitted on 29 November 2004 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 09 August 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) was required. Applicants were given two months to comply with extensions of time available pursuant to 37 CFR 1.136(a).

On 29 November 2004, applicant filed a response which included an executed declaration and a two-month extension with a $430.00 extension 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 four of the five listed joint inventors and by Riitta Luukkala as legal representative for the deceased joint inventor, Mauri Luukkala.

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 legal representative 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 23 September 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 November 2004.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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SUGHRUE MION PLLC
2100 PENNSLYVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of	:
Kaoru Nemoto et al	:
Application No. 10/488,893	: DECISION GRANTING PETITION
Filed: March 8, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q79824	:

This is a decision on the petition, filed March 8, 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 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Sagun KC and Anthony J. Zelano
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, VA 22201

In re Application of	:	
PEINADO et al.	:	
Serial No.: 10/488,898	:	Decision on Petition
Filed: March 8, 2004	:	
Attorney Docket No.: MERCK-2840	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.144 filed on April 6, 2009 requesting reconsideration of the restriction requirement.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/EP02/09937 and as such, is eligible for unity of invention practice.

On July 12, 2006, the examiner mailed to the applicant a restriction requirement under 35 USC 121 and 372 requiring applicant to elect between a method for subgrouping nucleic acid pools, a kit, and the analysis of genetic abnormalities. The examiner cited Tortola et al. (Oncogene, 1999) as evidence that the first claimed invention did not possess a special technical feature, and that the different inventions were thus not joined by a special technical feature.

On August 14, 2006, applicants elected, with traverse, Group I, a method for subgrouping nucleic acid pools. The response argued that the claims comprise overlapping subject matter and thus would not impose an undue burden on the examiner to examiner all of the claims together.

On September 22, 2006, the examiner mailed to applicants a non-final Office action in which the examiner stated, in part, that search burden was not an issue under lack of unity practice. Nevertheless, the examiner also addressed the different search requirements of the different groups. The examiner made the lack of unity requirement final, and claims 12-13 were withdrawn from consideration as being directed to a non-elected invention. Claims 1-11 were examined. Claims 1-11 were rejected on the following grounds:

1) Claims 1-5 and 7-9 were rejected under 35 USC 102(b) as being anticipated by Trenkle et al. (Nucleic Acids Research, 1998).

2) Claims 1 and 6 were rejected under 35 USC 102(b) as being anticipated by Tortola et al. (Oncogene, 1999).

3) Claims 10 and 11 were rejected under 35 USC 103(a) as being unpatentable over Trenkle et al. (Nucleic Acids Research, 1998) in view of Simone et al. (Trends in Genetics, 1998).

On March 26, 2007, applicants filed an amendment amending claims 1-11 and adding claims 14-20. Applicants also provided remarks traversing the rejections.

On June 13, 2007, the examiner mailed to applicants a final Office action. In the action, claim 20 was held to be non-elected by original presentation, since claim 20 required consideration of patients having a disease and analysis of genes for a disease-specific gene, wherein the originally elected invention did not require such. Claims 12, 13, and 20 were withdrawn from examination as being directed to a non-elected invention. Claims 1-11 and 14-19 were rejected on the following grounds:

1) Claim 1-5, 7-9, and 14-19 were rejected under 35 USC 102(b) as being anticipated by Trenkle et al. (Nucleic Acids Research, 1998).

2) Claim was rejected under 35 USC 103(a) as being unpatentable over Trenkle et al. (Nucleic Acids Research, 1998) in view of Tortola et al. (Oncogene, 1999).

3) Claims 10 and 11 were rejected under 35 USC 103(a) as being unpatentable over Trenkle et al. (Nucleic Acids Research, 1998) in view of Simone et al. (Trends in Genetics, 1998).

On October 15, 2007, applicants filed an after final amendment in which claims 1-11 and 14-19 were amended. Applicants did not provide arguments regarding the withdrawal of claim 20, but rather incorrectly indicated that claim 20 was under examination. Applicants also included remarks traversing the grounds of rejections.

On October 23, 2007, the examiner mailed to applicants an advisory action indicating that the after final amendment of October 15, 2007 was not entered since the claim amendments raised new issues. The rejections were maintained for reasons of record.

On November 13, 2007, applicants filed a request for continued examination, in which entry of the after final amendment of October 15, 2007 was requested.

On February 7, 2008, the examiner mailed to applicants a non-final Office action. Claims 12, 13, and 20 remained withdrawn from consideration. Claims 1-11 and 14-19 were rejected on the following grounds:

1) Claims 1-5, 7-11, and 14-19 were rejected under 35 USC 103(a) as being unpatentable over Trenkle et al. (Nucleic Acids Research, 1998) in view of Simone et al. (Trends in Genetics, 1998).

2) Claim 6 was rejected under 35 USC 103(a) as being unpatentable over Trenkle et al. (Nucleic Acids Research, 1998) and Simone et al. (Trends in Genetics, 1998) in view of Tortola et al. (Oncogene, 1999).

On May 7, 2008, applicants filed an amendment in which non-elected claims 12 and 13 were canceled and new claims 21 and 22 were submitted. Applicants again did not provide arguments that claim 20 should not be withdrawn, but instead incorrectly indicated that claim 20 is under examination. Applicants provided arguments addressing the grounds of rejection.

On September 17, 2008, the examiner mailed to applicants a non-final Office action. The examiner indicated that claims 20-22 were withdrawn from consideration but did not provide reasons why new claims 21 and 22 were withdrawn. Claims 1-11 and 14-19 were rejected on the following grounds:

1) Claims 1-11 and 14-19 were rejected under 35 USC 103(a) as being unpatentable over Trenkle et al. (Nucleic Acids Research, 1998) in view of Leethanakul et al. (Oral Oncology, 2000).

On December 16, 2008, applicants submitted an amendment in which withdrawn claim 21 was amended. Applicants requested that withdrawn claims 21 and 22 be examined, reasoning that they are directed to the elected invention and are dependent from examined claim 2. Applicants also provided arguments addressing the rejection.

On February 4, 2009, the examiner mailed to applicants a final Office action. Claims 20-22 remained withdrawn from consideration as being directed to a non-elected invention, however, the examiner did not address applicants' request to examine claims 21 and 22 with the elected Group. Claims 1-11 and 14-19 were rejected on the following grounds:

1) Claims 1-11 and 14-19 were rejected under 35 USC 103(a) as being unpatentable over Trenkle et al. (Nucleic Acids Research, 1998) in view of Leethanakul et al. (Oral Oncology, 2000).

On April 6, 2009, applicants submitted an after final amendment and the petition under consideration. The after final amendment includes a repeated request that claims 21 and 22 be examined with the elected Group, and arguments pertaining to the remaining rejection.

DISCUSSION

The petition and file history have been carefully considered.

The relevant claims, as they are currently amended, appear below:

Claim 1. (Previously Presented) A method for performing a genetic analysis of a biological sample comprising generating representations of nucleic acid pool in said sample by RNA arbitrarily primed PCR (RAP-PCR), wherein the amount of starting nucleic acid in said sample is less than 50 ng, said method further comprising subgrouping the RAP-PCR product, and hybridizing the sub-grouped product to a microarray slide.

Claim 6. (Previously Presented) The method according to claim 5 wherein the cDNA microarray comprises cDNAs of normal and diseased tissues.

Claim 11. (Previously Presented) The method according to claim 1 wherein the amount of total RNA is 50 ng to 10 pg.

Claim 20. (Withdrawn) A method for performing a genetic analysis of a patient suffering from a disease comprising generating representations of nucleic acid pool of a biological sample isolated from said patient by RNA arbitrarily primed PCR (RAP-PCR), subgrouping the RAP-PCR product, and hybridizing the sub-grouped product to a microarray slide comprising a plurality of genes, wherein at least one said gene is specific to said disease.

Claim 21. (Withdrawn, Currently Amended) The method of claim 2 wherein the amount of RNA used in said reverse transcription is 50 ng.

Claim 22. (Withdrawn) The method of claim 2 wherein the amount of RNA used in said RNA arbitrarily primed PCR is 5 ng.

With regard to claims 21-22, the petition correctly states that the examiner has never explained why claims 21 and 22 should be withdrawn from consideration as being directed to a non-elected group. The only difference between currently withdrawn claims 21 and 22 and examined claim 2 is the amount of RNA present. Claim 1 recites the range of sample being less than 50 ng. Claim 22 is clearly encompassed by the scope of claim 1 because it is limited to a point within the range of less than 50 ng.

It is noted that claim 21 is limited to 50 ng and as such, may be considered an improper dependent claim. While the limitation of 50 ng may be outside the range encompassed by claim 1, this limitation is covered by the teachings of Leethanakul, which teaches a range of 50 ng to 10 pg. Further, claim 11, which depends from claim 1 and which has already been examined on the merits, also encompasses an embodiment of 50 ng. Therefore, the lack of unity determination between the elected invention and claims 21 and 22 is improper.

The petition urges that currently withdrawn claim 20 should be examined with the elected Group since there is overlapping subject matter. A chart comparing the limitations of Claim 1 and 20 is set forth below. Italics text indicates differences between the claims.

Claim 1	Claim 20
A method for performing a genetic analysis	A method for performing a genetic analysis
of a biological sample	*of a patient suffering from a disease*
comprising generating representations of nucleic acid pool	comprising generating representations of nucleic acid pool
in said sample	of a biological sample
by RNA arbitrarily primed PCR (RAP-_PCR),	by RNA arbitrarily primed PCR (RAP-PCR),
wherein the amount of starting nucleic acid in said sample is less than 50 ng, said method further comprising	
Subgrouping the RAP-PCR product, and hybridizing the sub-grouped product to a microarray slide.	Subgrouping the RAP-PCR product, and hybridizing the sub-grouped product to a microarray slide
	comprising a plurality of genes, wherein at least one gene is specific to said disease.

Claim 1 and claim 20 are both directed to a method for performing a genetic analysis of a biological sample, comprising generating representations of nucleic acid pool by RNA arbitrarily primed PCR (RAP-PCR) subgrouping the RAP-PCR and hybridizing the sub-grouped product to a microarray slide.

Claim 1 and Claim 20 differ with respect to the scope of the biological sample, and with respect to the amount of nucleic acid starting material. Claim 1 is generic to any biological sample, while Claim 20 requires that the biological sample be obtained from a patient suffering from a disease. Claim 6, which depends from claim 1 and which has already been examined on the merits, recited the limitations of a DNA microarray comprising cDNAs from normal and diseased tissues. Claim 1 is limited to a starting material of less than 50 ng, while Claim 20 is silent concerning the amount of starting material. However, these differences are merely variations in scope. As set forth in MPEP 806.03,

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Claims 1 and 20 overlap in scope with regard to the three active steps. For this reason, unity of invention exists between elected Group 1 and Claim 20.

DECISION

The petition is **GRANTED** for the reasons set forth above.

Claims 20, 21 and 22 are hereby rejoined to the elected Group.

The finality of the Office action mailed 4 February 2009 has been vacated.

The application will be forwarded to the examiner for consideration of the papers filed April 6, 2009 and for preparation of an Office action consistent with this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Mike Wityshyn
(Acting) Director, Technology Center 1600

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PAUL J WHITE, SENIOR COUNSEL
NATIONAL RENEWABLE ENERGY LABORATORY (NREL)
1617 COLE BOULEVARD
GOLDEN CO 80401-3393

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OFFICE OF PETITIONS

In re Application of :
Wang :
Application No. 10/488,902 : ON PETITION
Filed: March 4, 2004 :
Attorney Docket No. NREL 02-08 :
For: ULTRA-HIGH CURRENT DENSITY
THIN-FILM SI DIODE

This is a decision on the petition under 37 CFR 1.137(b), filed on November 30, 2006 to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed May 16, 2006, which set an extendable three month period for reply. Accordingly, this application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on January 30, 2007.

Applicant has submitted a RCE and amendment in reply to the May 16, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 16, 2006 final Office action, and authorization to charge the petition fee and the RCE filing fee to petitioner's deposit account. Accordingly, deposit account no. 14-0460 will be charged a $395.00 RCE filing fee and a $750.00 petition to revive fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1775 for consideration of the RCE and amendment filed on November 30, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060517

DATE : May 17, 2006

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction on Patent No.: 6,997,470 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

Lesley D Morris
LESLEY D. MORRIS
PATENT EXAMINER
CENTER 3600

SPE: Lesley D. Morris **Art Unit** 3611

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060517

DATE : May 17, 2006

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction on Patent No.: 6,997,470 B2

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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

ERNEST C. WHITE, LIE
Certificates of Correction Branch
(703) 308-9340 EXT. 122

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:

Lesley D Morris
LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE: Lesley D. Morris **Art Unit** 3611

22 DEC 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of FAUCHERE (Deceased) Application No.: 10/488,993 PCT No.: PCT/FR02/03059 Int. Filing Date: 09 September 2002 Priority Date: 10 September 2001 Attorney Docket no.: 0514-1141 For: AUTOMATIC APPARATUS FOR SYNTHESIS OF SMALL ORGANIC MOLECULES AND SYNTHESIS METHOD USING SAME	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 12 October 2004.

BACKGROUND

On 10 March 2004, 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 and surcharge for filing the declaration after the thirty month period.

On 10 August 2004, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b) was required.

On 12 October 2004, applicant filed a response to the Notification submitting a declaration signed by inventor Jean Neimark, Jean-Michel Henlin and identifying Gisele Fauchere as the legal representative of the deceased inventor, Jean-Luc Fauchere.

DISCUSSION

Applicant provided a declaration executed by Gisele Fauchere which identifies her as the legal representative for deceased inventor Jean-Luc Fauchere. The declaration provides the legal representative's citizenship, residency and mailing address, and states the citizenship, residency and mailing address for both the deceased inventor and joint inventors.

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

CONCLUSION

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

The application 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 **12 October 2004.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286

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JUN 22 2007

OFFICE OF PETITIONS

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

In re Application of	:	
Anne Vera Macedo, et al.	:	
Application No. 10/489,026	:	ON PETITION
Filed: August 23, 2004	:	
Attorney Docket No. 2001M003C	:	

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

A review of the record discloses that the above-identified application became abandoned for failure to timely pay the issue fee on or before February 27, 2007. The application is being revived for consideration of a submission under 37 CFR 1.114. However, 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. Therefore, the requisite issue fee is being charged to counsel's deposit account.

The petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed March 1, 2007.

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above-identified application is again allowed, petitioner may request that the issue fee paid on March 1, 2007, 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 1711 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/09/2007

TO SPE OF : ART UNIT 2800 (2857)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,269,533 Appl. # 10/489,028

Attn: Mohammed Charioui

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

Ok to enter changes as req. in COCIN? In eDan/Madras.

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments: The proposed corrections for claim 1, line 52; claim 9, line 54; and claim 14, line 26 are not approved because it would raise new matter. The proposed correction for claim 8, line 37 is not approved because it would make the claim appear to have a missing step since it would jump from "a" to "c" and also would make claim 16 confusing, since claim 16 dependent on claim 14 and claim 16 would have two steps marked "c".

ELISEO RAMOS-FELICIANO 11/29/07
SUPERVISORY PATENT EXAMINER

Art Unit. 2857

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 8/28/2008
Patent No.	: 7,269,533 B2
Inventor(s)	: Theiss et al.
Issue Date	: September 11, 2007
Title	: **METHOD FOR THE DETERMINATION OF PARAMETERS OF A SEAT PASSENGER**
Doc./File No.	: **6147-0015WOUS**

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(s) in your request, your request for a certificate of correction is denied for the following reasons shown on the PTOL-306 Spe Response. (attached)

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

McCormick Paulding & Huber
CityPlace II
185 Asylum Street
Hartford CT 06103-4102

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080312

DATE : March 12, 2008

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,244,740

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:

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: James O. Wilson Art Unit 1624

01 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

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Alexandria, VA 22313-1450
www.uspto.gov

Richard E.L. Henderson
Bayer CropScience LP
Patent Department
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of	:	
SEITZ, et al.	:	
Application No.: 10/489,087	:	
PUT No.: PCT/EP02/09866	:	DECISION ON PETITION
Int. Filing Date: 04 September 2002	:	
Priority Date: 17 September 2001	:	UNDER 37 CFR 1.42
Attorney Docket No.: CS8145/LeA 35,188	:	
For: DELTA 1-PYRROLINES USED AS	:	
PESTICIDES	:	

This decision is in response to applicant's "Submission of Missing Parts of Application Under 37 CFR 1.53" filed 12 August 2004. The response is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 04 September 2002, applicants filed the international application, which claimed a priority date of 17 September 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 March 2003. 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, 17 March 2004.

On 09 March 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an English translation of the international application and a preliminary amendment.

On 26 July 2004, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 12 August 2004, applicant filed the present response which included a combined declaration and power of attorney which, in addition to the joint inventors, was executed by

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Angelika Lubos-Erdelen as sole heir to the estate of deceased inventor Christoph Erdelen.

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."

An examination of the filed declaration and power of attorney finds that the document lists the post office, residence and citizenship for both the deceased inventor Christoph Erdelen and the heir to his estate, Angelika Lubos-Erdelen. As such, the declaration is in compliance with 37 CFR 1.497(a)-(b). In addition, applicant has provided an English translation of the German deed of inheritance showing Mrs. Erdelen to be sole heir. The submission of the declaration executed by the heir is being interpreted to mean that no legal representative of the estate has been appointed nor is statutorily required to be appointed. If this interpretation is incorrect applicants should contact this office immediately.

In light of the above, it is proper to grant applicant's request 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 04 September 2002 and a date of **12 August 2004** under 35 U.S.C. 371.

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Magnus Palmlof	:	
Application No. 10/489,088	:	DECISION ON PETITION
Filed: March 9, 2004	:	TO WITHDRAW
Attorney Docket No. 5848-175USWO	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 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).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Damon Gabriel Engel
Application No. 10/489,101
Filed: September 21, 2004
Attorney Docket No.: PURE-019US

This is a decision on the petition filed July 30, 2007 to withdraw the holding of abandonment, under 37 CFR 1.181.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

A Notice of Allowance and Notice of Allowability were mailed November 3, 2006. Prior to the date the issue fee was due, a Request for Continued Examination (RCE) was filed on February 6, 2007. The RCE was considered and both a Notice of Allowance and Notice of Allowability were mailed, to the address and attorneys of record on March 21, 2007. The issue fee was due not later than June 21, 2007. No response to the Notice of Allowance and Notice of Allowability having been filed, this application became abandoned June 22, 2007. Accordingly, a Notice of Abandonment was mailed July 16, 2007.

Petitioner argues that the RCE was timely filed on February 5, 2007 by Express Mail and submits copies of the RCE, post card, check and the Express Mail Label as proof of filing.

Petitioners are advised that the application is not abandoned because a timely response was not filed to the November 3, 2006 Notice of Allowance and Notice of Allowability. Rather, the application is abandoned because petitioners failed to pay the issue fee in response to the Notice of Allowance and Notice of Allowability mailed March 21, 2007.Therefore, the Notice of Abandonment mailed July 16, 2007 was appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

---

[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)).

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of
Damon Gabriel Engel
Application No. 10/489,101
Filed: September 21, 2004
Attorney Docket No.: PURE-019US

ON PETITION

This is a decision on the petition filed November 21, 2007 under 37 CFR 1.137 (b) to revive the above-identified application.

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

This application became abandoned for failure to timely pay the issue fee on or before June 21, 2007. This application became abandoned June 22, 2007. Accordingly, a Notice of Abandonment was mailed July 16, 2007.

A review of the record reveals that the Issue Fee Transmittal Form (PTOL-85b) has not been supplied, however, the issue fee in the amount of $1440 and the publication fee in the amount of $300 have been charged to petitioner's deposit account no. 50-4160, per the authorization noted in the petition to revive.

If petitioner desires to have the information normally found in the Issue Fee Transmittal Form (PTOL-85b) printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

This application is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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MAY 01 2008

In re Application of	:	
Damon Gabriel Engel	:	
Application No.: 10/489,101	:	ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No.: **PURE-019US**	:	

This is a decision on the petition, filed April 30, 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 November 21, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2628 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

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MAY 01 2008

In re Application of	:	
Damon Gabriel Engel	:	
Application No.: 10/489,101	:	ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No.: **PURE-019US**	:	

This is a decision on the petition, filed April 30, 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 November 21, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2628 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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7/15/08

Patent No. :7339962
Ser. No. :10489115
Inventor(s) :Farrrell et al.
Issued : 3/4/08
Title : FREQUENCY LOCKING OF MULTISECTION LASER DIODES
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
40l 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
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive,
Chicago, Illinois 60606

HR

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

In re Patent No. 7,339,962	:	
Issue Date: March 4, 2008	:	
Application No. 10/489,115	:	DECISION ON PETITION
Filed: September 13, 2004	:	
Attorney Docket No.: 04-171	:	

This is a decision on the Request To Correct Assignment Data Pursuant To 37C.F.R. § 3.81(b), filed October 30, 2009 to correct the assignee's name on the PTOL-85B. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted with petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct assignee's name on the previously submitted PTOL-85B and that such error sought to be corrected was an inadvertent typographical error. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from:

"Interuniversitair Microelektronics Centrum (IMEC), Leuven, (BE)"

to:

-Intune Technologies Limited, Dublin, (IE) -

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(i) were submitted with the Petition. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor 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. 7,339,962.

Brian W. Brown
Petitions Examiner
Office of Petitions

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MAY 26 2005

Director's Office
Group 3700

McANDEREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

In re Application of
Stephen D. Noble, et al.
Serial No. 10/489,117
Filed: September 13, 2004
For: STORAGE TANK FOR CRYOGENIC LIQUIDS

DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed September 13, 2004, seeks to have this application made special based upon the Environmental Quality Program and the Energy Conservation program.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(V and VI) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 5/24/05

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Graham John Wilson :
Application No. 10/489,129 : ON PETITION
Filed: March 8, 2005 :
Attorney Docket No. 6993P001 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

It is noted that an amendment was included with the petition filed on February 2, 2007. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the required reply as noted above.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

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

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

cc: JENNIFER HAYES
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/489,129	WILSON, GRAHAM JOHN	
	Examiner	Art Unit	
	Alicia M. Torres	3671	

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

THE REPLY FILED 02 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-21 and 23-30.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Thomas B. Will
Supervisory Patent Examiner
Group 3600

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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OCT 02 2007

OFFICE OF PETITIONS

In re Application of	:	
Graham John Wilson	:	
Application No. 10/489,129	:	ON PETITION
Filed: March 8, 2005	:	
Attorney Docket No. 6993P001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 5, 2006. A Notice of Abandonment was mailed on December 11 2006. On February 2, 2007 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 18, 2007. In response, on July 23, 2007, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). The application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

The application is being referred to Technology Center AU 3671 for processing of the RCE submitted on July 23, 2007 in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

In re Application of	:	
Martin Pfeiffer et al	:	
Application No. 10/489,131	:	DECISION GRANTING PETITION
Filed: March 5, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 071956.0103	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 20, 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 16, 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 2815 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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United States Patent and Trademark Office
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Patent No. : 7,299,822 B2
Serial No. : 10/409134
Inventor(s) : Wall
Issued : November 27, 2007
Title : **LIQUID LEVEL REGULATION APPARATUS**
Docket No. : **TJK/452**

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.

A petition under 37 CFR 1.182 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B 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.

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

ecw

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OFFICE OF PETITIONS

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

In re Patent No. 7299822	:	
Issue Date: 11/27/2007	:	
Application Number: 10/489134	:	ON PETITION
Filing or 371(c) Date: 08/30/2004	:	
Attorney Docket Number: TJK/452	:	

This is a decision on the paper filed on May 20, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of

ATABEKOV, Joseph et al.
Application No. 10/489,136
Filed: March 16, 2004
Attorney Docket No. **9286.30**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 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 Alice Bonnen on behalf of all attorneys of record who are associated with customer No. 20792. All attorneys/agents associated with the Customer Number 20792 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.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JOSEPH ATABEKOV**
LOMONOSOVSKI PROPEKT 15-142
MOSCOW 117311
RUSSIA

cc: **MR. SHOWN P. FOLEY**
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090-1497

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OFFICE OF PETITIONS

GOTTLIEB RACKMAN & REISMAN
270 MADISON AVENUE
NEW YORK, NY 10016

In re Application of
Geoffrey James Neilson et al
Application No. 10/489,156
Filed: August 9, 2004
Attorney Docket No. 4646-003

ON PETITION

This is a decision on the petition, filed January 11, 2007, 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.

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

The 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 February 17, 2006, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 18, 2006.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply

from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/489,156	NEILSON ET AL.	
	Examiner	Art Unit	
	Julian W. Woo	3731	

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

THE REPLY FILED 11 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 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): 23-50, if the application is revived.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 3/9/06
13. ☒ Other: See Continuation Sheet.

Julian W. Woo
Julian W. Woo
Primary Examiner
Art Unit: 3731

Continuation of 13. Other: The finality of the Office action of 2/17/06 and the indication of allowable subject matter in claims 51-53 would be withdrawn, and these claims would be further prosecuted in view of the information disclosure statement of 3/9/06, if the application is revived.

OIPE IAP62
MAR 0 9 2006
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PTO/SB/08A (07-05)
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Substitute for form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 1

Complete if Known	
Application Number	10/489,156
Filing Date	August 9, 2004
First Named Inventor	NEILSON, Geoffrey James
Art Unit	3731
Examiner Name	~~SAM, Charles H.~~ Woo, J.W.
Attorney Docket Number	4646-003

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
JWW		US- 5,772,675	06/30/1998	Johann F. Hellenkamp	
JWW		US- 5,727,569	03/17/1998	Benetti et al.	
JWW		US- 4,796,623	01/10/1989	Krasner et al.	
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FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3]-Number[4]-Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T[6]
JWW		WO 00/74574	12/14/2000	Masao Takahashi et al.		
JWW		WO 02/43632	06/06/2002	Geoffrey Neilson et al.		

Examiner Signature	Julian W. Woo	Date Considered	5-23-07

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. [1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, 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 (1-800-786-9199) and select option 2.

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GOTTLIEB RACKMAN & REISMAN
270 MADISON AVENUE
NEW YORK, NY 10016

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey James Neilson et al	:	
Application No. 10/489,156	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. 4646-003	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

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

This matter is being forwarded to Technology Center AU 3731 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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NEW YORK, NY 10016

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In re Application of	:	
Geoffrey James Neilson et al	:	
Application No. 10/489,156	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. 4646-003	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 29, 2007, 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 January 30, 2008.

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

This matter is being referred to Technology Center AU 3773 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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APR 1 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Thomas F Bergert
Williams Mullen
Suite 700
8270 Greensboro Drive
McLean VA 22102

In re Application of
John H. Vivadelli, et al.
Application No. 10/489,160
Filed: March 8, 2004
For: **SYSTEM AND METHOD FOR MANAGING WORKPLACE REAL ESTATE AND OTHER RESOURCES**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 10, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
571-272-7023

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1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Sang Yun Lee et al	:	
Application No. 10/489,164	:	DECISION ON PETITION
Filed: May 7, 2004	:	
Attorney Docket No. P69571US0	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 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 May 30, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 31, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of May 30, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted on December 1, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 2681 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received December 1, 2006.

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

Frances Hicks
Petitions Examiner
Office of Petitions

19 AUG 2004

#3

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ALEXANDRIA, VA 22313-1450
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Wood, Herron & Evans, LLP
2700 Carew Tower
Cincinnati, OH 45202-2917

In re Application of	:	
Dante Pazzanese Duarte Lanna et al.	:	
Application No. 10/489,186	:	DECISION ON
PCT No.: PCT/BR02/0003	:	
Int. Filing Date: 09 January 2002	:	PETITION UNDER
Priority Date: 12 January 2001	:	
Atty. Docket No.: CLBR-07	:	37 CFR 1.137(b)
For: Nutritional Composition For	:	
Increasing Milk Protein In Animals	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 08 March 2004.

BACKGROUND

This international application was filed on 09 January 2002, claimed an earliest priority date of 12 January 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 18 July 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 14 July 2003 (since 12 July 2003 was a Saturday). 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 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

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OFFICE OF PETITIONS

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005-1257

In re Application of	:	
Yoshiaki Kikuchi	:	
Application No. 10/489,201	:	ON PETITION
Filed: March 10, 2004	:	
Attorney Docket No. 77792/434	:	

This is a decision on the petition, filed December 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2838 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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Paper No. _____

Date : December 30, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yoshiaki Kikuchi
Application No. :10/489,201
Filed :March 10, 2004

The above-identified application has been assigned Patent No. 6,984,985 and an issue date of January 10, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 10, 2006:

"All reference to Patent No. 6,984,985 to Yoshiaki Kikuchi of Japan for APPARATUS FOR JUDGING STATE OF ASSEMBLED BATTERY appearing in the Official Gazette of January 10, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

22 OCT 2003

#6

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Guy Tal
PO Box 302
Rosh Ha'ayin 48103
Israel

In re Application of	:	
TAL, Guy et al.	:	
Application No.: 10/489,210	:	DECISION
PCT No.: PCT/IL02/00743	:	
Int. Filing Date: 09 September 2002	:	ON PETITION UNDER
Priority Date: 10 September 2001	:	
Docket No.: BL92002	:	37 CFR 1.137(b)
For: HEAVY DUTY MAGAZINE LOADER	:	

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 13 October 2004 is **GRANTED**.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 13 October 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

13 JAN 2005

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Bella Fishman
VARIAN INC.
Legal Department
3120 Hansen Way, D-102
Palo Alto, CA 94303

In re Application of :
KALINITCHENKO, Iouri :
Application No.: 10/489,215 :
Filing Date: 09 March 2004 : **COMMUNICATION**
Attorney Docket No.: 01-37 :
For: APPARATUS AND METHOD FOR :
ELEMENTAL MASS SPECTROMETRY :

This communication is in response to the papers filed on 09 March 2004 and via facsimile on 07 January 2005.

A review of the file reveals that the above-captioned application was improperly treated by the Office as a filing under 35 U.S.C. 371. In the papers filed 09 March 2004, applicant submitted a preliminary amendment which states, in part:

> This patent application is submitted for filing in the US PTO as a continuation of international application No. PCT/AU02/01239 and claiming priority under International Convention.

The official USPTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371, (the National Stage of PCT)" states, in part, that: "[i]f there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111." Here, the preliminary amendment contains conflicting information which should have made this a filing under 35 U.S.C. 111(a).

This application is being forwarded to the National Stage Processing Branch for removal of the international papers communicated from the International Bureau. Thereafter, the application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of 09 March 2004.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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OFFICE OF PETITIONS

Browdy and Neimark, PLLC
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

In re Application of	:	
Yves Menezo	:	
Application No. 10/489,220	:	DECISION ON PETITION
Filed: November 1, 2004	:	
Attorney Docket No. MENEZ02	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 28, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 28, 2008. Accordingly, the date of abandonment of this application is April 29, 2008. A Notice of Abandonment was mailed on May 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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In re Application of	:	
Joseph Atabekov, et al.	:	
Application No. 10/489, 221	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO WITHDRAW
Attorney Docket No. 9286-31	:	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 19, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Myers Bigel Sibley & Sajovec has been revoked by the assignee of the patent application on October 9, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. SHAWN P. FOLEY
LERNER, DAVID, LITTENBERG
KRUMHOLZ & MENTLIK, LLP
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090-1497

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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MAR 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
Noriko NAGAE, et al.
Application No. 10/849,222
Filed: May 20, 2004
For: METHOD AND SYSTEM FOR DATA PROCESSING WITH RECOVERY CAPABILITY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 29 July 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 29 July 2005 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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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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OFFICE OF PETITIONS

THE ECLIPSE GROUP
106 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of	:	
Ashutosh PANDE et al.	:	
Application No. 10/489,225	:	DECISION ON PETITION
Filed: March 09, 2004	:	
Attorney Docket No. STO1006USU (147-US-U1)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the Issue and Publication Fees on or before August 21, 2009, as required by the Notice of Issue and Publication Fee(s) Due, mailed May 21, 2009. Accordingly, the date of abandonment of this application is August 22, 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 and the publication fee, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Power of Attorney filed October 01, 2009 is accepted.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6051 or in her absence David A. Bucci at (571) 272-7099.

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

David Bucel
Petitions Examiner
Office of Petitions

cc: KENNETH N. NIGON
RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

12 NOV 2004

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Charles N.J. Ruggiero
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, Connecticut 06901-2682

In re Application of LANGE, et al. U.S. Application No.: 10/489,237 PCT No.: PCT/EP02/10191 Int. Filing Date: 11 September 2002 Priority Date: 14 September 2001 Attorney Docket No.: WW023USU For: METHOD FOR COOLING A TRANSVERSE FLOW SYNCHRONOUS MACHINE AND TRANSVERSE FLOW SYNCHRONOUS MACHINE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the U.S. Basic National Fee from the due date of March 14, 2004 until the filing of this petition pursuant to 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

28 FEB 2005

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CHICAGO, IL 60606

In re Application of CALCOTT	:	
U.S. Application No.: 10/489,238	:	
PCT Application No.: PCT/GB02/04111	:	
Int. Filing Date: 10 September 2002	:	DECISION
Priority Date Claimed: 11 September 2001	:	
Attorney Docket No.: 04-115	:	
For: TYPE II MID-INFRARED QUANTUM	:	
WELL LASER	:	

This is in response to applicant's "Petition Under 37 C.F.R. S 1.47(b) by Person Having Proprietary Interest to File Application on Behalf of the Inventor Who Cannot Be Found" filed 24 January 2005.

BACKGROUND

On 10 September 2002, applicant filed international application PCT/GB02/04111, which claimed priority of an earlier United Kingdom application filed 11 September 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 March 2004.

On 10 March 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 19 August 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 24 January 2005, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite $200.00 petition fee will be charged to Deposit Account No. 13-2490 as authorized in the petition.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that inventor Philip Douglas John Calcott cannot be found. However, petitioner has not adequately demonstrated that a diligent effort was made to locate Calcott. Specifically, petitioner has provided documentary evidence of a single attempt to reach Calcott by postal mail (see Exhibit C). While the affidavit of Paul Edward Dunn suggests that attempts were made to reach Calcott through one of Calcott's former co-workers and by electronic mail, petitioner has not provided an affidavit from the person with firsthand knowledge of such attempts. Furthermore, no evidence of efforts to search telephone, Internet, and postal mail directories has been provided. Thus, it would not be reasonable to conclude at the present time that Calcott cannot be found.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor(s) has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, item (C) above applies. With respect to item (C), MPEP 409.03(f) states,

> 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.

Petitioner has submitted a legal memorandum signed by Paul Edward Dunn. Although, the memorandum states that Mr. Dunn is a registered patent agent recognized to practice patent law, the memorandum does not specifically state that Mr. Dunn is an attorney at law. Furthermore, the legal conclusion of the memorandum is based on Calcott's purported invention of the subject matter in question as part of his regular employment duties. However, petitioner has not furnished an affidavit from the person with firsthand knowledge (e.g. Calcott's supervisor) of the invention being made during employment.

With regard to item (6) above, petitioner has made a sufficient showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

CONCLUSION

Because petitioner has failed to satisfy items (2) and (5) above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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In re Application of CALCOTT	:	
U.S. Application No.: 10/489,238	:	
PCT Application No.: PCT/GB02/04111	:	
Int. Filing Date: 10 September 2002	:	DECISION
Priority Date Claimed: 11 September 2001	:	
Attorney Docket No.: 04-115	:	
For: TYPE II MID-INFRARED QUANTUM	:	
WELL LASER	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. S 1.47(b)" filed 01 August 2005.

BACKGROUND

On 10 September 2002, applicant filed international application PCT/GB02/04111, which claimed priority of an earlier United Kingdom application filed 11 September 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 20 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 March 2004.

On 10 March 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 19 August 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 24 January 2005, applicant filed a petition under 37 CFR 1.47(b).

On 28 February 2005, this Office mailed a decision dismissing the 24 January 2005 petition.

On 01 August 2005, 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 fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Petitioner has previously satisfied items (1), (3), (4), and (6) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that inventor Philip Douglas John Calcott cannot be found. The renewed petition adequately demonstrates that a diligent effort was made to locate Calcott. Specifically, petitioner attempted to contact Calcott by postal mail (see affidavit of Jacqueline Susan Camm, ¶1), by asking Calcott's former co-workers (see Camm's affidavit, ¶2, and the affidavit of Jane Cheryl Kendrick, ¶1), by electronic mail (see Kendrick's affidavit, ¶2), and by searching telephone and Internet directories (see Camm's affidavit, ¶¶2-7). Thus, petitioner has established with reasonable certainty that Calcott cannot be located.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, item (C) above applies. With respect to item (C), MPEP 409.03(f) states,

> 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.

Petitioner has submitted a proper legal memorandum signed by Christopher John Kelley. The memorandum states that Mr. Kelley is a an attorney familiar with the laws of the United Kingdom and that title of the present invention would be awarded to petitioner. The legal conclusion of the memorandum is based on Calcott's purported invention of the subject matter in question as part of his regular employment duties. Petitioner has furnished an affidavit from the person with firsthand knowledge of the invention being made during employment (see affidavit of Timothy Ashley).

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 10 September 2002 and a date under 35 U.S.C. 371(c) of 24 January 2005.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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Arlington, VA 22203

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OFFICE OF PETITIONS

In re Application of
Arthur Keith Turner et al.
Application No. 10/489,242
Filed: August 5, 2005
Attorney Docket No. 117-498

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The request is **NOT APPROVED**.

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

The 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, **application transferred to Oppedahl & Larson**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Fleit, Kain, Gibbons, Gutman, Bongini & Bianco
21355 East Dixie Highway, Suite 115
Miami, FL 33180

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OFFICE OF PETITIONS

In re Application of
Arthur Keith Turner et al.
Application No. 10/489,242
Filed: August 5, 2004
Attorney Docket No. 117-498

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 11, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **application transferred to Fleit Kain Gibbons Gutman Bongini & Bianco**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Fleit, Kain, Gibbons, Gutman, Bongini & Bianco**
21355 East Dixie Highway, Suite 115
Miami, FL 33180

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ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Arthur Keith TURNER, et al	:	
Application No. 10/489,242	:	DECISION ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. GRT/117	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 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 29, 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 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 election and amendment , (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 1645 for appropriate action by the Examiner in the normal course of business on the reply received June 9, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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JUN 09 2008
PATENT & TRADEMARK OFFICE

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PTO/SB/64 (01-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 117-498

First named inventor: TURNER et al.

Application No.: 10/489,242 Art Unit: 1645

Filed: August 5, 2004 Examiner: N.M. Minnifield

Title: BACTERIAL VACCINE

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

☑ Other than small entity – fee $ 1,540.00 (37 CFR 1.17(m))

2. Reply and/or fee

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

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

06/10/2008 SZEWDIE1 00000037 10489242
01 FC:1453 1540.00 OP

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	June 9, 2008 Date
Gary R. Tanigawa Typed or printed name	43180 Registration Number, if applicable
901 North Glebe Road, Suite 1100 Address	703-816-4000 Telephone Number
Arlington, VA 22203-1808 Address	

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

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

FAX RECEIVED
CANCELLED
JAN 28 2005
CANCELLED
OFFICE OF PETITIONS

COPY MAILED
JAN 31 2005
OFFICE OF PETITIONS

Applicant: Kato et al.
Appl. No.: 10/489,244
International Filing Date: September 12, 2002
Title: COMPOSITE PRINTER AND SCAN IMAGE COPYING METHOD
Attorney Docket No.: Q80289
Pub. No.: US 2004/0247359 A1
Pub. Date: December 9, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on January 7, 2005.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the first inventor's name "Takashi Kato" is misspelled as "Takashi Koto."

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

The typographical error on the front page of the patent application publication, wherein the inventor's name "Takashi Kato" is misspelled as "Takashi Koto" is an Office mistake, but it is not a material error under 37 CFR 1.221(b). The mistake is a minor typographical error. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon & Vanderhye, PC
901 North Glebe Road, 11th floor
Arlington, VA 22203

COPY MAILED
JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Turner et al.	:	
Application No. 10/489,273	:	DECISION ON PETITION
Filed: September 22, 2004	:	TO WITHDRAW
Attorney Docket No. 117-499	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The request is **NOT APPROVED**.

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

The 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; **application was transferred to Oppedahl & Larson,** do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Fleit, Kain, Gibbons, Gutman, Bongini & Bianco
21355 East Dixie Highway, Suite 115
Miami, FL 33180

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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NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

COPY MAILED
SEP 17 2008

In re Application of	:	
Turner et al.	:	
Application No. 10/489,273	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. GRT/117-499	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 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 30, 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 May 1, 2007. A Notice of Abandonment was mailed October 18, 2007.

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

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

This application is being referred to Technology Center AU 1645 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

13 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

In re Application of	:	
RAMI, et al.	:	
Application No.: 10/489,277	:	DECISION ON PETITION
PCT No.: PCT/GB02/04206	:	
Int. Filing Date: 13 September 2002	:	UNDER 37 CFR 1.181
Priority Date: 13 September 2001	:	
Attorney Docket No.: P32894A	:	
For: UREA-COMPOUNDS ACTIVE AS VANILLOID	:	
RECEPTOR ANTAGONISTS FOR THE	:	
TREATMENT OF PAIN	:	

This decision is in response to applicant's petition filed 12 November 2008 in the United States Patent and Trademark Office (USPTO) which includes a copy of a prior filing of 11 January 2006. The request is being treated pursuant to 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 13 September 2002, applicant filed international application PCT/GB02/04206, which claimed priority of an earlier application filed 13 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 March 2003. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 13 March 2004.

On 11 March 2004, 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 23 July 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 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 afforded two months to file a proper response.

On 21 December 2005, 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/905 mailed 23 July 2004 within the time period set therein and that above-identified application was abandoned as to the United States.

On 12 November 2008, applicant filed the present petition indicating that a petition had been filed 11 January 2006 arguing that a response to the Form PCT/DO/EO/905 had been filed on 11 August 2004.

DISCUSSION

A review of the application file finds applicant's original 11 August 2004 filing contained therein. The combined declaration and power of attorney is in compliance with 37 CFR 1.497(a)-(b) and therefore is a valid response to the Form PCT/DO/EO/905 and it is proper to grant applicant's petition at this time.

CONCLUSION

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

The Form PCT/DO/EO/909 mailed 21 December 2005 is hereby **VACATED**.

The application has an international filing date of 13 September 2002 under 35 U.S.C. 363 and will be given a date of **11 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (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 filing receipt indicating the 371 date as detailed above.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTHEW J. BOOTH & ASSOCIATES, PLLC
P. O. BOX 50010
AUSTIN, TX 78763-0010

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of

BURSILL, Donald William
Application No. 10/489,285
Filed: August 25, 2004
Attorney Docket No. **13720.0101**

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 30, 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, "*applicant will not be prejudiced by the attorney's withdrawal*", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FORRESTER HOUSE**
52 BOUNDS GREEN ROAD
LONDON, ENGLAND N11 2EY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 10, 2009

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/489286 Patent No.: 7235018

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: Change approved.

/Daniel P. Stodola/ — **SPE**

3679 — **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

06 FEB 2006

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

In re Application of	:	
OKUBO, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/489,307	:	
PCT No.: PCT/JP04/00034	:	UNDER 37 CFR 1.181
Int. Filing Date: 07 January 2004	:	
Priority Date: 09 June 2003	:	
Atty Docket No.: 250459US3PCT	:	
For: VERTICAL AXIS TYPE WIND POWER STATION AND VANE MANUFACTURING PROCESS, STRUCTURE AND METHOD FOR MOUNTING WIND-DRIVEN DEVICE OF WIND POWER STATION, AND WINDBREAK WIND POWER PLANT	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed 11 April 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 07 January 2004, applicant filed international application PCT/JP04/00034, which claimed priority of an earlier Japanese application filed 09 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 December 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was set to expire 30 months from the priority date, 09 December 2005.

On 17 March 2004, 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 language translation of the International Application. Although, applicant checked box #4 of the transmittal letter indicating an express request to begin national examination procedures, applicant did not include an executed oath or declaration of the inventors as required.

On 19 July 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. Applicant was afforded the later of two months from the mail date of the notification or 32 months from the priority date to file a proper response.

On 18 February 2005, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) indicating that the present application was abandoned as to the United State of America for failure to comply with the Form PCT/DO/EO/905 mailed 19 July 2004.

On 11 April 2005, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment indicating that the date of expiration of 32 months from the earliest claimed priority was 09 February 2006 and therefore the application should not have been held abandoned.

On 20 October 2005, applicant filed a "Response to Notice of Missing Requirements Under 35 U.S.C. 371" accompanied by an executed combined declaration and power of attorney and preliminary amendment.

DISCUSSION

A review of the subject application finds that, notwithstanding applicant's request, because applicant did not provide an executed oath or declaration in the initial filing of 17 March 2004, national examination procedures should not have begun. Therefore, the forms PCT/DO/EO/905 and PCT/DO/EO/909 should not have been mailed to applicant and it is proper to grant applicant's petition at this time.

Further, a review of the application file reveals that the declaration filed 20 October 2005 complies with 37 CFR 1.497(a)-(b) and that applicant has authorized the charging of all appropriate fees to Deposit Account No.: 15-0030. Therefore, 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

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

The "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) mailed 19 July 2004 and the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 18 February 2005 are hereby **VACATED**.

This application will be given an international application filing date of 07 January 2004 and a date of **20 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

26 JUL 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Christopher J. McDonald
HOFFMAN, WASSON & GITLER, P.C.
2461 South Clark Street
Crystal Center 2 - Suite 522
Arlington, VA 22202

In re Application of
TOMELLERI, Raffaele
U.S. Application No.: 10/489,309
PCT No.: PCT/EP02/08869
Int. Filing Date: 08 August 2002
Priority Date: 08 August 2001
Attorney Docket No.: A-8961
For: METHOD FOR AUTOMATICALLY CORRECTING THE SYSTEMIC ERRORS IN MEASUREMENT

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's' "Petition to Revive" filed with the national stage papers on 17 March 2004 is hereby **GRANTED** as follows:

The appropriate petition fee of $665.00 for a small entity has been paid. Applicant states 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 signed declaration in compliance with 37 CFR 1.497(a) and (b) was submitted on 17 March 2004. The surcharge fee pursuant to 37 CFR 1.492(e) has been paid.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 08 August 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 March 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-10-07 Paper No.: _____

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction on Patent No.: 7028582

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

SPE

3744
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 7, 2006

TO SPE OF : ART UNIT 3681

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/489345 Patent No.:7,048,671 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: _____

C Marvin — **SPE**

3681 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Patent No. 7,439,379 :
Issue Date: October 21, 2008 :
Application No. 10/489,346 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 2004-0336A :

This is a decision on the petition filed February 19, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Christopher Keith Richardson	: DECISION ON REQUEST FOR
Patent Number	: 7568630	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/489,354	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **184** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

11 JAN 2005

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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

In re Application of	:	
Focke et al.	:	
Application No. 10/489,356	:	
PCT No.: PCT/EP02/10240	:	
Int. Filing Date: 12 September 2002	:	COMMUNICATION
Priority Date: 14 September 2001	:	
Atty. Docket No.: Q80186	:	
For: Packing With A Tear Strip And	:	
Device For Production Thereof	:	

This is in response to the "Response To Communication" filed on 03 December 2004.

DISCUSSION

In a Communication mailed on 18 November 2004, it was indicated that

> The declaration filed on 24 September 2004 is *NOT* accepted for further processing in that it incorrectly indicates that the filing date of the PCT application is the date of submission of the 35 U.S.C. 371 papers - i.e., it indicates that international application PCT/EP02/10240 "was filed on March 12, 2004," when in fact its international filing date was 12 September 2002. As such, the declaration is defective.

In response, counsel argues that the declaration should be accepted because "the 'March 12, 2004' date is, in fact, intended to refer to the '371 National Stage entry date' and not to the International filing date." However, it is respectfully observed that the declaration states explicitly that it is directed to "the application of which was filed on March 12, 2004 as United States Application Number or PCT International Application Number PCT/EP02/10240." Per 35 U.S.C. 363, this application is deemed to have been filed (except for purposes of § 102(e)) on the international filing date, 12 September 2002. As such, the reference to the date of "March 12, 2004" as the filing date is in error and, as such, the declaration is defective.

CONCLUSION

The declaration filed on 24 September 2004 is **NOT ACCEPTED**, without prejudice.

Applicants must respond within **TWO (2) MONTHS** of the mailing date of this

decision, extendable pursuant to 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT**.

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.

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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16 AUG 2005

United States Patent and Trademark Office

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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

In re Application of	:	
Focke et al.	:	
Application No. 10/489,356	:	
PCT No.: PCT/EP02/10240	:	
Int. Filing Date: 12 September 2002	:	COMMUNICATION
Priority Date: 14 September 2001	:	
Atty. Docket No.: Q80186	:	
For: Packing With A Tear Strip And	:	
Device For Production Thereof	:	

This is in response to the "Response To Communication" filed on 24 March 2005.

DISCUSSION

In a Communication mailed on 11 January 2005, it was indicated that

> counsel argues that the declaration should be accepted because "the 'March 12, 2004' date is, in fact, intended to refer to the '371 National Stage entry date' and not to the International filing date." However, it is respectfully observed that the declaration states explicitly that it is directed to "the application of which was filed on March 12, 2004 as United States Application Number or PCT International Application Number PCT/EP02/10240." Per 35 U.S.C. 363, this application is deemed to have been filed (except for purposes of § 102(e)) on the international filing date, 12 September 2002. As such, the reference to the date of "March 12, 2004" as the filing date is in error and, as such, the declaration is defective.

In response, counsel has submitted a newly executed declaration which avoids the defect noted in the Communication mailed on 11 January 2005. As such, it would now be appropriate to accept the declaration for further processing.

CONCLUSION

The declaration filed on 24 March 2005 is **ACCEPTED**.

It is noted that, as stated in the Communication mailed on 18 November 2004, the declaration filed on 24 September 2004 was accepted for purposes of compliance with 37 CFR 1.42 and 35 U.S.C. 371(c)(4).

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 **24 September 2004**.

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HOUSTON, TX 77253-3267

Mail Date: 06/03/2010

Applicant	: Klaus Biester	: DECISION ON REQUEST FOR
Patent Number	: 7654164	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/489,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **523** 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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MAILED
JUN 08 2009
OFFICE OF PETITIONS

In re Patent No. 7,481,031	:
Boxall et al.	:
Issue Date: January 27, 2009	:
Application No. 10/489,380	: DECISION ON REQUEST FOR
Filed: March 12, 2004	: RECONSIDERATION OF
Attorney Docket No.	: PATENT TERM ADJUSTMENT
010770.00030	:
Title: Load Transfer Plate For	:
In Situ Concrete Slabs	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(B)," filed January 27, 2009. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for reconsideration of patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,481,031 on January 27, 2009. The patent issued with a patent term adjustment of 352 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 352 days to 1007 days.

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.

The petition submitted by patentees sets forth a period of adjustment for Office delays totaling 1413 days (Three Year Delay under 37 CFR 1.703(b) of 726 days *plus* a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 687 days). The petition also sets forth an overlap of 71 days. The petition reflects a reduction of patent term adjustment totaling 335 days for applicants' failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. Thus, patentees assert entitlement to an overall adjustment of 1007 days (1413(687+726)days for Office delay *less* 335 days for applicants' delays and less 71 days overlap).

Patentees' petition acknowledges the adjustments under 37 CFR 1.702(a) totaling 687 days. It is noted that patentees' own calculation of the period of adjustment includes an alleged Office delay of 71 days from the date the application was considered ready for issue (November 18, 2008) and issuance of the patent on January 27, 2009. However, pursuant to 37 CFR 1.703(a)(6) an adjustment for examination delay is 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. In this instance the issue fee and drawings were submitted on November 6, 2008. Thus, the Office had four months (until March 6, 2009) before delay would be attributed. Thus, an additional 71 days for Office delay is not warranted. Patentees' also acknowledge the reductions for applicants' failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. These reductions total 335 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 January 27, 2009, the application was pending three years and 687 days after its filing date. The Office agrees that because certain actions were not taken within specified time frames, the patent is entitled to an adjustment of 687 days pursuant to 37 CFR 1.702(a). At issue is whether patentees should accrue an additional 687 days of patent term adjustment for the Office

taking in excess of three years to issue the patent, as well as 655 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 687 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to

> the issuance of the patent will not result in any additional patent term adjustment. See, 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See, Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

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

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

section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 12, 2004, to the date the patent issued on January 27, 2009. Prior to the issuance of the patent, 687 days of patent term adjustment were accorded for the Office failing to respond within specified time frames during the pendency of the application. The 687 days accorded pursuant to 37 CFR 1.702(a) overlap with the 687 days of Office delay under 37 CFR 1.702(b).

The application actually issued three years and 687 days after its filing date. The Office did not delay 687 days and then delay an additional 687 days. Accordingly, 687 days of patent term adjustment (not 687 days and 687 days) was properly entered because the period of delay of 687 days attributable to the delay in the issuance of the patent overlaps with the adjustment

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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).

of 687 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted. Thus, 687 days, which includes the 687 days pursuant to 37 CFR 1.702(a), is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered an overall adjustment of 687 days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made because the correct adjustment of 352 days is properly set forth in the Letters Patent (adjustments totalling 687 days less reductions totalling 335 days).

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

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

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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MINNEAPOLIS, MN 55402-0902

Mail Date: 04/21/2010

Applicant	: Tetsuya Sakata	: DECISION ON REQUEST FOR
Patent Number	: 7640047	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/489,397	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1151** 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.

22 DEC 2004

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APPLIED MEDICAL RESOURCES CORPORATION
22872 Avenida Empresa
Rancho Santa Margarita, CA 92688

In re Application of PINGLETON et al.	:	DECISION ON
Application No.: 10/489,403	:	
PCT No.: PCT/US02/06759	:	PETITION
Int. Filing: 04 March 2002	:	
Priority Date: 24 September 2001	:	UNDER 37 CFR 1.182
Attorney Docket No.: AUS-2164-AL	:	
For: BLADELESS OBTURATOR	:	

This is a decision on applicant's Response to Missing Requirements under 35 U.S.C. 371, treated as a petition under 37 CFR 1.182 to accept the declaration executed by Henry Kahle, filed in the United States Patent and Trademark Office (USPTO) on 12 October 2004.

On 11 March 2004, applicant filed a transmittal letter requesting entry into the national stage along with the basic national fee and an executed declaration.

On 19 August 2004, a Notification of Missing Requirements issued indicating that an oath or declaration, in accordance with 37 CFR 1.66 or 1.68, was required; that is, the third inventor's first name on the declaration did not correspond with what is on the published application.

On 12 October 2004, applicant filed the instant petition under 37 CFR 1.182 to correct the name of inventor Hank Kahle to Henry Kahle.

As explained in MPEP 605.04(c), applicants must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant submitted the statement of Henry Kahle regarding his first name. Applicant submitted his signed affidavit identifying both names of applicant, Hank Kahle and Henry Kahle. Thus, the evidence is sufficient to conclude that Hank Kahle is one and the same person as Hank Kahle. The declaration, indicating Henry Kahle as an inventor, is now in compliance with 37 CFR 1.497 and acceptable.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name is **GRANTED**.

The declaration submitted on 11 March 2004 is acceptable as filed. 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 **11 March 2004.**

Cynthia M. Kratz

Cynthia M. Kratz
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In re Application of	DECISION ON
SAKAMOTO et al	
PCT No.: PCT/JP02/09337	
Application No.: 10/489,421	
Int. Filing Date: 12 September 2002	RENEWED PAPERS FILED
Priority Date: 14 September 2001	
Attorney's Docket No.: Q01188PCT	
For: BLUETOOTH COMMUNICATION SYSTEM	
FOR DRIVERS OF VEHICULES	UNDER 37 CFR 1.42 and 1.181

This is a decision on the "Second Renewed Submission Under 37 CFR 1.42" filed 24 January 2008.

BACKGROUND

In a decision from this Office on 25 August 2004, the papers filed on 13 September 2002 were dismissed. The decision indicated an acceptable declaration under 37 CFR §1.497(b)(2) states the citizenship, residence, mailing address of the legal representative and the deceased inventor.

On 24 August 2006, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) per Decision from Legal Department dated 25 August 2004.

On 24 January 2008, applicants filed the present renewed submission under 37 CFR § 1.42 and a petition under 37 CFR 1.181 that the papers were filed timely on November 19, 2004 and the petitions are accompanied with a declaration, and a copy of the USPTO stamped postcard dated 19 November 2004.

DISCUSSION

37 CFR 1.181

Postcard:

Applicants indicate that the revised declaration was submitted on 19 November 2004 as indicated by postcard, which, inter alia lists:

(1) Declaration

(2) Second Renewed Submission under 37 CFR 1.42

The postcard lists the above item and bears a USPTO date of stamp as 19 November 2004.

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 revised Declaration was deposited with the U.S. Patent and Trademark Office on 19 November 2004.

Accordingly, the date of receipt for the Declaration is 19 November 2004.

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

37 CFR 1.42:

The renewed submission includes, a newly executed declaration signed by Mayumi SAKAMOTO as Legal Representative of the deceased inventor (Tsuneaki SAKAMOTO) and the declaration now sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representative. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

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

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The NOTICE OF ABANDONMENT, mailed 24 August 2006 has been **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continue processing and indicating a date of **19 November 2004** under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4).

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25 AUG 2004

#3

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In re Application of	:	DECISION ON
SAKAMOTO et al	:	
PCT No.: PCT/JP02/09337	:	
Application No.: 10/489,421	:	PAPERS FILED
Int. Filing Date: 12 September 2002	:	
Priority Date: 14 September 2001	:	
Attorney's Docket No.: Q01188PCT	:	UNDER 37 CFR 1.42
For: BLUETOOTH COMMUNICATION SYSTEM	:	
FOR DRIVERS OF VEHICULES	:	

This is a decision on the declaration filed 13 September 2002, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 12 March 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a declaration signed by Mayumi SAKAMOTO as heiress to deceased inventor Tsuneaki SAKAMOTO.

DISCUSSION

The declaration is unacceptable because the declaration does not state that Mayumi SAKAMOTO is the sole heir or the legal representative for the deceased inventor, Tsuneaki SAKAMOTO. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that Mayumi SAKAMTO is the sole heir or is the legal representatives for the deceased inventor, Tsuneaki SAKAMOTO, to accept the application under 37 CFR 1.42.

In addition, the declaration is unacceptable because it does not satisfy 37 CFR §1.497(b)(2) since it is incomplete because although the declaration states a citizenship, residence, and mailing address, it is unclear if this indication is of Mayumi SAKAMOTO(the heiress of the estate of Tsuneaki SAKAMO) or of Tsuneaki (the deceased inventor). It is unclear because the top line of the box has the name of the deceased inventor but the heiress signed on

the signature line of the inventor's signature box, and below this name a citizenship, residence, mailing address is stated without indicating to whom it refers.

A proper declaration identifies the residence, mailing address and citizenship for both the sole heiress and the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Second Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

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

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#5

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21 FEB 2008

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In re Application of	DECISION ON
SAKAMOTO et al	
PCT No.: PCT/JP02/09337	
Application No.: 10/489,421	
Int. Filing Date: 12 September 2002	RENEWED PAPERS FILED
Priority Date: 14 September 2001	
Attorney's Docket No.: Q01188PCT	
For: BLUETOOTH COMMUNICATION SYSTEM	
FOR DRIVERS OF VEHICULES	UNDER 37 CFR 1.42 and 1.181

This is a decision on the "Second Renewed Submission Under 37 CFR 1.42" filed 24 January 2008.

BACKGROUND

In a decision from this Office on 25 August 2004, the papers filed on 13 September 2002 were dismissed. The decision indicated an acceptable declaration under 37 CFR §1.497(b)(2) states the citizenship, residence, mailing address of the legal representative and the deceased inventor.

On 24 August 2006, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) per Decision from Legal Department dated 25 August 2004.

On 24 January 2008, applicants filed the present renewed submission under 37 CFR § 1.42 and a petition under 37 CFR 1.181 that the papers were filed timely on November 19, 2004 and the petitions are accompanied with a declaration, and a copy of the USPTO stamped postcard dated 19 November 2004.

DISCUSSION

37 CFR 1.181

Postcard:

Applicants indicate that the revised declaration was submitted on 19 November 2004 as indicated by postcard, which, inter alia lists:

(1) Declaration

(2) Second Renewed Submission under 37 CFR 1.42

The postcard lists the above item and bears a USPTO date of stamp as 19 November 2004.

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 revised Declaration was deposited with the U.S. Patent and Trademark Office on 19 November 2004.

Accordingly, the date of receipt for the Declaration is 19 November 2004.

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

37 CFR 1.42:

The renewed submission includes, a newly executed declaration signed by Mayumi SAKAMOTO as Legal Representative of the deceased inventor (Tsuneaki SAKAMOTO) and the declaration now sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representative. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

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

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The NOTICE OF ABANDONMENT, mailed 24 August 2006 has been **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continue processing and indicating a date of **19 November 2004** under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4).

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JJGJR.: 05-06

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COPY MAILED
MAY 30 2006
OFFICE OF PETITIONS

In re Application of Breitenbach,et al. Application No. 10/489,439 Filing Date: 9 March, 2004 Attorney Docket No.: 72.092	: : : : :	DECISION

This is a decision on the petition filed on 2 May, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 29 September, 2005, reply due in the absence of an extension of time on or before 29 December, 2005;

- the instant application went abandoned by operation of law after midnight 29 December, 2005;

- the Office mailed the Notice of Abandonment on 13 April, 2006;
- Petitioner filed the instant petition on 2 May, 2006, with, inter alia, an allegation that the reply had been filed, and with what are averred to be true copies of the papers (reply in the form of an amendment) averred to have been filed—albeit under an erroneous number 11/037,974, but with the correct number 10/489,439 in the header of all pages of the reply (amendment)—and of a date-stamped ("DEC 19 2005") receipt card.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in

---

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Petitioner appears to have satisfied that construct.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 13 April, 2006, Notice of Abandonment is **vacated**, and the fees are waived and were not charged.

The instant application is released to Technology Center 1700 for further processing in due course.

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

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

07 JUN 2005

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James R. Williams
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In re Application of	:	
AMARAL, Manuel	:	
App. No.: 10/489,442	:	
PCT No.: PCT/FR02/03043	:	DECISION ON PETITION
Int. Filing Date: 06 September 2002	:	
Priority Date: 07 September 2001	:	
Attorney Docket No.: 04-25	:	
For: DEVICE FOR CONTROLLING INTAKE AIR		

This decision is in response to applicant's "Petition under 37 CFR 1.181" filed 24 March 2005 requesting to withdraw the holding of abandonment.

The petition is accompanied by a copy of the declaration filed on 07 September 2004 in the United States Patent and Trademark Office and requests, in effect, that the copy of the declaration be accepted as a true copy of the declaration filed 07 September 2004.

A review of the application file reveals that a declaration in compliance with 37 CFR 1.497 was received in the United States Patent and Trademark Office on 07 September 2004. Accordingly, applicant's request that the copy of the declaration filed with the petition be accepted as a copy of the original declaration filed 07 September 2004 is dismissed as moot, since the original declaration has now been located and placed in the application file.

In view of the declaration filed 07 September 2004, the Notification of Abandonment dated 18 February 2005 is hereby **VACATED**. The application has an international filing date of 06 September 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **07 September 2004.**

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith

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27 SEP 2004
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Robert W. Becker & Associates
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Tijeras, NM 87059

In re Application of	:	
Bellhausen et al.	:	
Application No.: 10/489,446	:	DECISION ON
PCT No.: PCT/DE02/03369	:	
Int. Filing Date: 10 September 2002	:	PETITION UNDER
Priority Date: 10 September 2001	:	
Attorney Docket No.: I-2119-US-11	:	37 CFR 1.47(a)
For: Toothed Belt	:	

This is a decision on applicant's petition under 37 CFR 1.47(a) filed on 10 March 2004.

BACKGROUND

This international application designated the U.S., was filed on 10 September 2002 and claimed earliest priority of an application filed on 10 September 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 20 March 2003. Accordingly, the 30 month time period for payment of the basic national fee in the U.S. expired as of midnight on 10 March 2004. On 10 March 2004, applicants filed *inter alia* the basic national fee.

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 Transmittal Letter accompanying the petition authorized charging the petition fee to a Deposit Account, satisfying requirement (1).

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Gerry King be excused. In support of this request, petitioner provides a "Declaration" signed by J.B. Mulgrew which states that, on 01 March 2004, "complete application papers, including declaration" were left with Mr. King, and that, in a telephone conversation on 04 March 2004, Mr. King stated that "he had not taken any further action." There is no allegation that Mr. King explicitly refused to sign the declaration, and the facts presented do not support a conclusion that Mr. King's conduct constitutes refusal to sign in that an unreasonably short time period of only three days was allowed for him to consider the application papers and decide whether to execute the declaration. It is not clear

whether Mr. King would have executed the declaration had he been permitted a reasonable amount of time in which to read and study the application papers prior to signing. As such, it would not be appropriate that he refused to sign the declaration (nor that he could not be found or reached after diligent effort) on the basis of the present record. Requirement (2) has not been satisfied.

Regarding requirement (3), the petition includes a statement the last known addresses of Mr. King. 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 **DISMISSED**, without prejudice.

The $130.00 petition fee is being charged to Deposit Account 02-1653.

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." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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.

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In re Application of	:	
Bellhausen et al.	:	
Application No.: 10/489,446	:	DECISION ON
PCT No.: PCT/DE02/03369	:	
Int. Filing Date: 10 September 2002	:	PETITION UNDER
Priority Date: 10 September 2001	:	
Attorney Docket No.: I-2119-US-11	:	37 CFR 1.47(a)
For: Toothed Belt	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed on 25 February 2005.

DISCUSSION

In a decision mailed on 27 September 2004, the petition under 37 CFR 1.47(a) filed on 10 March 2004 was dismissed without prejudice because

> Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Gerry King be excused. In support of this request, petitioner provides a "Declaration" signed by J.B. Mulgrew which states that, on 01 March 2004, "complete application papers, including declaration" were left with Mr. King, and that, in a telephone conversation on 04 March 2004, Mr. King stated that "he had not taken any further action." There is no allegation that Mr. King explicitly refused to sign the declaration, and the facts presented do not support a conclusion that Mr. King's conduct constitutes refusal to sign in that an unreasonably short time period of only three days was allowed for him to consider the application papers and decide whether to execute the declaration. It is not clear whether Mr. King would have executed the declaration had he been permitted a reasonable amount of time in which to read and study the application papers prior to signing. As such, it would not be appropriate that he refused to sign the declaration (nor that he could not be found or reached after diligent effort) on the basis of the present record. Requirement (2) has not been satisfied.

The instant renewed petition is accompanied by a "Declaration By Mr. R. Moore" which states, in part, that "I have also attempted, unsuccessfully, on several occasions to make contact with Mr. King at his place of work; the most recent being on 26 January 2005."

MPEP 409.03(d) provides in part that

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, Mr. Moore merely asserts that unspecified attempts were made to contact Mr. King, without detailing the nature of those attempts. Thus, numbered statement 3 is insufficient to establish that Mr. King refused to sign the declaration. With regard to numbered statement 4, Mr. Moore states that "having ample opportunity and time (10 months), I do not believe that there is any possibility of obtaining Mr. King's signature." Counsel has not provided any evidence or argument tending to show that any efforts were undertaken (such as sending further correspondence or leaving telephone messages) to remind Mr. King to execute the declaration or to contact Mr. Moore. In the absence of any such reminders, the facts alluded to seem to constitute evidence that Mr. King could not be found or reached, not that he has refused to execute the application. However, counsel has not established that Mr. King could not be found or reached within the meaning of 37 CFR 1.47(a) because petitioner has indicated that Mr. King was in fact reached by correspondence and by telephone, and because petitioner has neither alleged nor adequately shown evidence of sufficient unsuccessful diligent efforts to locate Mr. King. As such, it would be inappropriate to grant the requested relief on the basis of the present record.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

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24 JUN 2005

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In re Application of	:	
Bellhausen et al.	:	
Application No.: 10/489,446	:	DECISION ON
PCT No.: PCT/DE02/03369	:	
Int. Filing Date: 10 September 2002	:	PETITION UNDER
Priority Date: 10 September 2001	:	
Attorney Docket No.: I-2119-US-11	:	37 CFR 1.47(a)
For: Toothed Belt	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed on 06 June 2005.

DISCUSSION

In a decision mailed on 07 April 2005, the renewed petition under 37 CFR 1.47(a) filed on25 February 2005 was dismissed without prejudice because, with regard to requirement (2),

> Here, Mr. Moore merely asserts that unspecified attempts were made to contact Mr. King, without detailing the nature of those attempts. Thus, numbered statement 3 is insufficient to establish that Mr. King refused to sign the declaration. With regard to numbered statement 4, Mr. Moore states that "having ample opportunity and time (10 months), I do not believe that there is any possibility of obtaining Mr. King's signature." Counsel has not provided any evidence or argument tending to show that any efforts were undertaken (such as sending further correspondence or leaving telephone messages) to remind Mr. King to execute the declaration or to contact Mr. Moore. In the absence of any such reminders, the facts alluded to seem to constitute evidence that Mr. King could not be found or reached, not that he has refused to execute the application. However, counsel has not established that Mr. King could not be found or reached within the meaning of 37 CFR 1.47(a) because petitioner has indicated that Mr. King was in fact reached by correspondence and by telephone, and because petitioner has neither alleged nor adequately shown evidence of sufficient unsuccessful diligent efforts to locate Mr. King. As such, it would be inappropriate to grant the requested relief on the basis of the present record.

The instant renewed petition is accompanied by a "Declaration" signed by Robert Moore and describing Mr. Moore's attempts "to deliver to Mr. King the complete application papers, including the declaration." Mr. Moore recounts circumstances pertaining to the possibility that Mr. King may have relocated to Scotland, but petitioner has provided no showing of any efforts diligently taken to attempt to locate Mr. King in Scotland (for

instance, telephone directory searches, Internet name searches, searches of postal records, or the like). Insofar as petitioner suggests that Mr. King may have relocated to Scotland but has not demonstrated due diligence in attempting to locate him there, it would not be appropriate at this time to conclude that he could not be found or reached after diligent effort within the meaning of 37 CFR 1.47(a).

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

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06 JAN 200

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In re Application of	:	
Bellhausen et al.	:	
Application No.: 10/489,446	:	DECISION ON
PCT No.: PCT/DE02/03369	:	
Int. Filing Date: 10 September 2002	:	PETITION UNDER
Priority Date: 10 September 2001	:	
Attorney Docket No.: I-2119-US-11	:	37 CFR 1.47(a)
For: Toothed Belt	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed on 24 October 2005.

DISCUSSION

In a decision mailed on 24 June 2005, the renewed petition under 37 CFR 1.47(a) filed on 06 June 2005 was dismissed without prejudice because, with regard to requirement (2),

> The instant renewed petition is accompanied by a "Declaration" signed by Robert Moore and describing Mr. Moore's attempts "to deliver to Mr. King the complete application papers, including the declaration." Mr. Moore recounts circumstances pertaining to the possibility that Mr. King may have relocated to Scotland, but petitioner has provided no showing of any efforts diligently taken to attempt to locate Mr. King in Scotland (for instance, telephone directory searches, Internet name searches, searches of postal records, or the like). Insofar as petitioner suggests that Mr. King may have relocated to Scotland but has not demonstrated due diligence in attempting to locate him there, it would not be appropriate at this time to conclude that he could not be found or reached after diligent effort within the meaning of 37 CFR 1.47(a).

The instant renewed petition is accompanied by, *inter alia*, a "Declaration" signed by Dr. Ulrich Ballhausen on 05 October 2005 which states that "I resent a complete application along with a declaration for signature to Mr. King on 07 July 2005" and that Dr. Ballhausen fruitlessly sought Mr. King's cooperation in further communications on multiple subsequent dates. Despite these efforts, Dr. Ballhausen states that "Mr. King has not responded further, and has not returned a signed declaration."

The instant renewed petition was also accompanied by a copy of a 07 July 2005 communication from Dr. Ballhausen to Mr. King (Exhibit 1) which requests Mr. King to sign the declaration, but which does not state that a copy of the complete application was attached; moreover, the application is not included among the "Anlagen" (attachments) itemized at the bottom of the page. Since the documentary evidence of record fails to corroborate Dr.

Ballhausen's statement that "I resent a complete application along with a declaration for signature to Mr. King on 07 July 2005," it would not be appropriate to grant the requested relief at this time. In any renewed petition on this matter, petitioner should explain why the copy of the application was neither mentioned nor itemized in the 07 July 2005 communication, and should furnish any available evidence pertaining to the issue of whether a complete copy of the application was in fact provided to Mr. King.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. 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). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

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03 APR 2006

#12

United States Patent and Trademark Office

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of	:	
Bellhausen et al.	:	
Application No.: 10/489,446	:	DECISION ON
PCT No.: PCT/DE02/03369	:	
Int. Filing Date: 10 September 2002	:	PETITION UNDER
Priority Date: 10 September 2001	:	
Attorney Docket No.: I-2119-US-11	:	37 CFR 1.47(a)
For: Toothed Belt	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed on 06 March 2006.

DISCUSSION

In a decision mailed on 06 January 2006, the renewed petition under 37 CFR 1.47(a) filed on 24 October 2005 was dismissed without prejudice because, with regard to requirement (2),

> The instant renewed petition is accompanied by, *inter alia*, a "Declaration" signed by Dr. Ulrich Ballhausen on 05 October 2005 which states that "I resent a complete application along with a declaration for signature to Mr. King on 07 July 2005" and that Dr. Ballhausen fruitlessly sought Mr. King's cooperation in further communications on multiple subsequent dates. Despite these efforts, Dr. Ballhausen states that "Mr. King has not responded further, and has not returned a signed declaration."
>
> The instant renewed petition was also accompanied by a copy of a 07 July 2005 communication from Dr. Ballhausen to Mr. King (Exhibit 1) which requests Mr. King to sign the declaration, but which does not state that a copy of the complete application was attached; moreover, the application is not included among the "Anlagen" (attachments) itemized at the bottom of the page. Since the documentary evidence of record fails to corroborate Dr. Ballhausen's statement that "I resent a complete application along with a declaration for signature to Mr. King on 07 July 2005," it would not be appropriate to grant the requested relief at this time. In any renewed petition on this matter, petitioner should explain why the copy of the application was neither mentioned nor itemized in the 07 July 2005 communication, and should furnish any available evidence pertaining to the issue of whether a complete copy of the application was in fact provided to Mr. King.

The instant renewed petition is accompanied by, *inter alia*, a "Declaration" signed by Dr. Ulrich Ballhausen on 03 March 2006 which states that Dr. Ballhausen sent "a copy of the U.S. application to Mr. King..., again inquiring about his signature," and that "Mr. King has failed to sign and return the declaration that was sent to him." Dr. Ballhausen's declaration (and the supporting documentation attached thereto) do not clearly describe and demonstrate the details of the purported transmission of the application to Mr. King. For instance, it is unclear whether the copy of the application was transmitted in paper form or as an attachment to an e-mail. If the transmission was of a physical copy of the application, petitioner should provide copies of the

correspondence mailed to Mr. King. If the transmission was via e-mail, the evidence of record does not explicitly indicate this to be the case. Moreover, the copies of e-mail transmissions attached to the renewed petition do not clearly specify that a complete copy of this specific application was sent to Mr. King for his review, along with an oath or declaration for him to execute and return. Instead, the e-mails merely allude in vague language to the signature of unspecified documents and to the compression and transmission of unspecified pdf files. Based on the evidence of record, it would not be appropriate to conclude that Mr. King's behavior constitutes a refusal to sign the oath or declaration within the meaning of 37 CFR 1.47(a) at this time.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. 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). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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

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#14

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14 AUG 2006

Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of Ballhausen et al. Application No.: 10/489,446 PCT No.: PCT/DE02/03369 Int. Filing Date: 10 September 2002 Priority Date: 10 September 2001 Attorney Docket No.: I-2119-US-11 For: Toothed Belt	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed on 01 June 2006.

DISCUSSION

In a decision mailed on 03 April 2006, the renewed petition under 37 CFR 1.47(a) filed on 06 March 2006 was dismissed without prejudice because, with regard to requirement (2),

> The instant renewed petition is accompanied by, *inter alia*, a "Declaration" signed by Dr. Ulrich Ballhausen on 03 March 2006 which states that Dr. Ballhausen sent "a copy of the U.S. application to Mr. King..., again inquiring about his signature," and that "Mr. King has failed to sign and return the declaration that was sent to him." Dr. Ballhausen's declaration (and the supporting documentation attached thereto) do not clearly describe and demonstrate the details of the purported transmission of the application to Mr. King. For instance, it is unclear whether the copy of the application was transmitted in paper form or as an attachment to an e-mail. If the transmission was of a physical copy of the application, petitioner should provide copies of the correspondence mailed to Mr. King. If the transmission was via e-mail, the evidence of record does not explicitly indicate this to be the case. Moreover, the copies of e-mail transmissions attached to the renewed petition do not clearly specify that a complete copy of this specific application was sent to Mr. King for his review, along with an oath or declaration for him to execute and return. Instead, the e-mails merely allude in vague language to the signature of unspecified documents and to the compression and transmission of unspecified pdf files. Based on the evidence of record, it would not be appropriate to conclude that Mr. King's behavior constitutes a refusal to sign the oath or declaration within the meaning of 37 CFR 1.47(a) at this time.

The instant renewed petition is accompanied by a "Declaration" signed by Dr. Ulrich Ballhausen on 26 May 2006, which explicitly states, *inter alia*, that Dr. Ballhausen transmitted a complete copy of the application and declaration to Mr. King via e-mail on 13 July 2005. This statement, taken in concert with the evidence already of record, establishes that Mr. King failed to sign and return the declaration after being presented with a complete copy of the application, and that this failure along with Mr. King's statements establishes a "refusal" within the meaning of 37 CFR 1.47(a).

DECISION

The petition is **GRANTED**.

The $130.00 surcharge under 37 CFR 1.492(h) is being charged to Deposit Account No. 02-1653, as authorized by the Transmittal Letter filed on 10 March 2004.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses 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. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **10 March 2004**.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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

United States Patent and Trademark Office

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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14 AUG 2006

Mr. Gerry King
16 Papworth Avenue
Culmore Road
Londonderry BT48 887
NORTHERN IRELAND

In re Application of
Ballhausen et al.
Application No. 10/489,446
PCT No.: PCT/DE02/03369
Int. Filing Date: 10 September 2002
Priority Date: 10 September 2001
For: Toothed Belt

Dear Mr. King:

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 (571) 272-3283. 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, 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
Office of PCT Legal Administration

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

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USA

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14 AUG 2006

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 (Gerry KING) 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/DE02/03369 and was filed on September 10, 2002 in the names of Ulrich Ballhausen and Gerry King for the invention entitled TOOTHED BELT. The national stage application number is 10/489,446 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of March 10, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/20/08

TO SPE OF : ART UNIT 1639 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/489,477 Patent No.: 7,371,849

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

*ATTN: Ok to enter sequence listing as requested in the cocin?

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

X Approved — All changes apply.

❑ Approved in Part — Specify below which changes do not apply.

❑ Denied — State the reasons for denial below.

Comments: SEQ ID NOs: 43-52 were originally filed in the application (see Figures 2, 17, and 19-20; Table 4, page 54; March 12, 2004). However, the sequences were not in compliance with the sequence rules (notified in non-final mailed on July 5, 2006). SEQ ID NOs: 43-52 were added for compliance with the sequence rules only (i.e. sequences are not new matter; sequence listiing, CRF, amendment to drawings and specification received on December 4, 2006). Therefore, SEQ ID NOs: 43-52 should be

included in the Patent publication.

/James (Doug) Schultz/ 1639

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8/20/08**

TO SPE OF : ART UNIT **1639 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/489,477** Patent No.: **7,371,849**

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

*ATTN: **Ok to enter sequence listing as requested in the cocin?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: SEQ ID NOs: 43-52 were originally filed in the application (see Figures 2, 17, and 19-20; Table 4, page 54; March 12, 2004). However, the sequences were not in compliance with the sequence rules (notified in non-final mailed on July 5, 2006). SEQ ID NOs: 43-52 were added for compliance with the sequence rules only (i.e. sequences are not new matter; sequence listiing, CRF, amendment to drawings and specification received on December 4, 2006). Therefore, SEQ ID NOs: 43-52 should be

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

included in the Patent publication.

/James (Doug) Schultz/ 1639

SPE Art Unit

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KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

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AUG 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Burcher et al.	:	
Application Number: 10/489481	:	DECISION ON PETITION
Filing Date: 08/11/2004	:	
Attorney Docket Number:	:	
13605PCTUS	:	

This is a decision on the petition filed on 16 April, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 3 January, 2007, for failure to timely file a reply to the non-final Office action mailed on 2 October, 2006, which set a three (3) month shortened stautory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The application is being referred to Technology Center Art Unit 3768 for further processing.

---

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

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 04/21/2010

Applicant	: Kouichi Toyomura	: DECISION ON REQUEST FOR
Patent Number	: 7593054	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/489,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **891** 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.

'07 SEP 200

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ALEXANDRIA, VA 22313-1450
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Brown & Michaels, PC
400 M &T Bank Building
118 N. Tioga St.
Ithaca NY 14850

In re Application of	:	
KOREYASU et al.	:	
Application No.: 10/489,489	:	DECISION ON
PCT No.: PCT/JP02/02629	:	
Int. Filing Date: 19 March 2002	:	PETITION UNDER
Priority Date: 13 April 2001	:	
Attorney Docket No.: ADC-Intercol	:	37 CFR 1.137(b)
For: POINT SERVER SYSTEM USING SERIAL NUMBERS	:	

This decision is in response to applicants' submission filed 12 March 2004.

BACKGROUND

On 19 March 2002, applicants filed international application PCT/JP02/02629 which designated the U.S. and claimed a priority date of 13 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 14 October 2003 (13 October 2003 being a Federal holiday).

On 12 March 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: an assertion of small entity status; the basic national fee; an English translation of the international application; the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; and a "PETITION FOR REVIVAL OF AN INTERNATIONAL 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 12 March 2004.

As to item (2), applicant submitted the petition fee on 12 March 2004.

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

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

The English translation of the international application filed 12 March 2004 does not appear to be an accurate translation of the international application as filed. Figures 11 and 12 of the international application appear to be substantially different than Figures 11 and 12 of the translation filed 12 March 2004.

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring: an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b); an English translation of the international application as filed; and the processing fee of $130 under 37 CFR 1.492(f) for furnishing the English translation later than thirty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066 (until 30 September 2004)
Facsimile: (703) 308-6459 (until 30 September 2004)
Telephone: (571) 272-3301 (after 01 October 2004)
Facsimile: (571) 273-0459 (after 01 October 2004)

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BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA STREET
ITHACA, NY 14850

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Koji Koreyasu	:	
Application No. 10/489,489	:	DECISION ON PETITION
Filed: April 25, 2005	:	TO WITHDRAW
Attorney Docket No. ADC-Intercol	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed September 7, 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 Meghan Van Leeuwen on behalf of all attorneys associated with customer number 20808. All attorneys/agents associated with customer number 20808 have been withdrawn.

There are not outstanding Office actions at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the sole inventor. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Koju Koreyasu
6-29-6, 8F, Shinjuku
Shinjuku-ku, TOKYO
160-0022

cc: Nino Plano Co., Ltd.
Attn: Masaya Hirako
1-23-4, SR Bldg., 7F
Hyakunin-cho, Shinjuki-ku
Toyko, JAPAN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/489,489	04/25/2005	Koji Koreyasu	ADC-Intercol

CONFIRMATION NO. 9801

OC000000025947135

20808
BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

Date Mailed: 09/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/07/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

K. Bralinet

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

FORMER ATTORNEY/AGENT COPY

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Colin James Flynn	:	
Application No. 10/489,497	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04-126	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 13, 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 February 20, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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
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VERENIUM C/O MOFO S.D.
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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In re Application of	:	
Walter Callen et al.	:	
Application No. 10/489,510	:	DECISION ON PETITION
Filed: January 12, 2005	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
564462006001	:	
Title: AMYLASES, NUCLEIC ACIDS	:	
ENCODING THEM AND METHODS FOR	:	
MAKING AND USING THEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 21, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 16, 2007, 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 January 17, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on April 21, 2008 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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United States Patent and Trademark Office
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VERENIUM CORPORATION
Intellectual Property Department
P.O. Box 910550
SAN DIEGO, CA 92191-0550

Mail Date: 05/03/2010

Applicant	: Walter Callen	: DECISION ON REQUEST FOR
Patent Number	: 7659102	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/489,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1031** 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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MICHAEL G PETITI
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SANTA BARBARA CA 93190-1929

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OFFICE OF PETITIONS

In re Application of	:	
Bill Jopson	:	
Application No. 10/489,514	:	DECISION ON PETITION
Filed: 1 July, 2004	:	
Atty Dcket No. 04CCI1US	:	

This is a decision on the petition filed on 5 December, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

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

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

The application became abandoned on 26 December, 2005, for failure to timely respond to the Office action requiring restriction and/or election mailed on 25 November, 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 5 July, 2006.

A provisional election has been filed with the present petition.

This application is being referred to Technology Center 3641 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

06 AUG 2004

#3

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Bryan Cave LLP
1290 Avenue of the Americas
New York NY 10104

In re Application of BONRATH Application No.: 10/489,523 PCT No.: PCT/EP02/10508 Int. Filing Date: 19 September 2002 Priority Date: 28 September 2001 Attorney's Docket No.: 20987 (CO38435/0137341) For: ETHYNYLATION PROCESS	DECISION ON PETITION UNDER 37 CFR 1.182

This is in response applicant's "Petition to the Director Pursuant to Rule 182 to Rectify the Designation of the United States in the International Application and Accept Entry of the Application into the U.S. Pursuant to 35 USC 371". The petition is treated under 37 CFR 1.182, filed 11 March 2004, requesting the designation of the United States as a rectification of an obvious error. The petition is **GRANTED.** Per his authorization, the $130.00 petition fee was charged to counsel's credit card account.

On 19 September 2002, applicant filed the above-identified international application. In Box No. V, Designation of States, applicant did not check the box next to the United States of America.

On 11 March 2004, applicant filed the present petition requesting the designation of the Untied States of America and authorization to charge the requisite $130.00 petition fee.

DISCUSSION

Applicant requests that the USPTO correct the obvious error and to allow for the Request to be corrected by checking the box used to indicate the designation of the United States of America. The Office must look to all the papers deposited on 19 September 2002 to determine whether an obvious error as defined in PCT Rule 91.1(b) is present.

Rule 91.1(b) states,

> "Errors which are due to the fact that something other than what was obviously intended was written in the international application or other paper shall be regarded as obvious errors. The rectification itself shall be obvious in the sense that anyone would immediately realize that nothing else could have been intended that what is offered as rectification."

Applicant requests the inclusion of the United States of America as a designated State. A review of the application reveals that in Box No. V of the REQUEST, the box used to indicate

the designation of the United States of America, was not checked. However, in Box III of the Request, Werner Bonrath, Ingrid Mueller, Bernd Englert, Reinhard Karge, Michael Schneider are indicated as applicant/inventors "for the purposes of the United States of America only". The designation of the United States of America was obviously intended by applicant to be designated since in Box No. III on the Request, applicant/inventors were named for the "purpose of the United States of America only". The omission of United States of America as a designated State on the Request as filed is considered to be an obvious error, meeting the requirement of Rule 91.1. These indications are clear indications that applicants intended to designate the United States of America. Accordingly, on 19 September 2001 the United States of America was designated.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**. The designation of the United States of America is accepted and PCT/EP02/10508 may enter the U.S. national stage.

The application will be forwarded to the United States Designated/Elected Office for further processing. International application no. PCT/EP02/10508 is assigned U.S. application number 10/489,523. Applicant should refer to the U.S. application number in all future correspondence.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467
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CMK/BM:cmk

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Jennifer H Hamilton
The Eclipse Group LLP
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Ste. 300
Granada Hills CA 91344

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OFFICE OF PETITIONS

In re Application of	:	
Harvey et al.	:	
Application No. 10/489525	:	
Filing or 371(c) Date: 07/23/2004	:	ON PETITION
Attorney Docket Number:	:	
ST01007USU (148-US-U1)	:	

This is a decision on the renewed petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed September 5, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 16, 2007.

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

This application is being referred to Technology Center Art Unit 3662 for processing of the Amendment in due course.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

0 9 DEC 2004

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Martin Pfeffer
Ostrolenk, Faber, Gerb, & Soffen LLP
1180 Avenue of the Americas
New York, New York 10036

In re Application of	:	
WALLACE et al.	:	
Application No.: 10/489,542	:	
PCT No.: PCT/GB02/03534	:	DECISION ON PETITION
Int. Filing Date: 29 July 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 12 September 2001	:	
Attorney Docket No.: P/25-299	:	
For: IMAGING APPARATUS AND METHOD	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 04 November 2004 to accept the application without the signature of joint-inventor, Ruth Mary Woodward. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 29 July 2002, applicants filed international application PCT/GB02/03534 which claimed a priority date of 12 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 March 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 12 March 2004.

On 12 March 2004, 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 amemdment.

On 16 August 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 04 November 2004, applicants filed a declaration executed by three of the four applicant/inventors and a petition under 37 CFR 1.47(a) on behalf of Ruth Mary Woodward.

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 Ruth Mary Woodward. The steps taken by Pamela Connelly are sufficient to show that Ruth Mary Woodward 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 29 July 2002 under 35 U.S.C. 363, and will be given a date of **04 November 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

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

09 DEC 2004

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Ruth Mary Woodward
Independent Scientific Advisor
HT Consultant, LTD.
35 Hills Road - Cambridge CB2 1NT

In re Application of
WALLACE et al.
Application No.: 10/489,542
PCT No.: PCT/GB02/03534
Int. Filing Date: 29 July 2002
Priority Date: 12 September 2001
Attorney Docket No.: P/25-299
For: IMAGING APPARATUS AND METHOD

Dear Ms. Woodward:

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

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

Anthony Smith

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

Counsel of Record:
Martin Pfeffer
Ostrolenk, Faber, Gerb, & Soffen LLP
1180 Avenue of the Americas
New York, New York 10036

2 1 DEC 2004
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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of	:	
RIMINGTON (deceased) et al.	:	DECISION ON
Application No.: 10/489,559	:	
PCT No.: PCT/GB02/03973	:	PAPERS
Int. Filing Date: 30 August 2002	:	
Priority Date: 30 August 2001	:	UNDER 37 CFR 1.42
Attorney's Docket No.: DEH-0016	:	
For: COMPOUND	:	

This is a decision on the submission filed by applicants on 15 October 2004, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in this declaration that inventor Rimington is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 30 August 2002, applicants filed international application PCT/GB02/03973 which claimed a priority date of 30 August 2001 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 March 2004 (29 February 2004 being a Sunday).

On 27 February 2004, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 09 August 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) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 15 October 2004, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a petition/fee for a one-month extension of time. The indication in this declaration that inventor Rimington is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declaration filed 15 October 2004 fails to comply with 37 CFR 1.497(a)-(b).

-First, it is not clear from the declaration whether the information below Greta Rimington's name is her residence, mailing address, and citizenship, or if it is the residence, mailing address, and citizenship of Claude Rimington. Additionally, the declaration does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name *and citizenship* of the deceased inventor (37 CFR 1.497(a)(3)).

-Second, under 37 CFR 1.42, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir). If the declaration is signed by a legal representative, the declaration should state that this person is the legal representative. Alternatively, applicants' attorney may file a statement certifying that the person signing is the legal representative. If the declaration is not signed by a legal representative and does not indicate that the persons signing are all of the heirs (or the sole heir), then it must be accompanied by a statement by either those signing or by the attorney which sets forth (1) that they are in fact all the heirs of the deceased and (2) that no legal representative of the deceased's estate has been appointed or is required by the applicable law to be appointed.

-Third, this declaration fails to comply with 37 CFR 1.497(a)-(b) because it fails to identify the inventor Diem Tran. The difference in the names of the inventor in the published international application (Diem Tran in the published international application) and the declaration (Diem Thuy Thi Tran) must be explained. Attention is directed to MPEP § 605.04(c) if there has been a change of name, to MPEP § 605.04(g) if there is a typographical or transliteration error, and to 37 CFR 1.497(d) if there has been a change in inventorship.

CONCLUSION

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

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

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Daniel Stemmer
Legal Examiner

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

14 JUL 2005

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CANTOR COLBURN, LLP
55 Griffin Road South
Bloomfield CT 06002

In re Application of:	:	
RIMINGTON (deceased), et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/489,559	:	SUBMISSION UNDER 37 CFR
PCT No.: PCT/GB02/03973	:	1.42 AND PETITION UNDER 37
Int. Filing Date: 30 August 2002	:	CFR 1.182 (INVENTOR'S NAME)
Priority Date: 30 August 2001	:	
Attorney's Docket No.: DEH-0016	:	
For: COMPOUNDS	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Correct The Name Of The Inventor" and the "Renewed Submission Under 37 CFR 1.42" filed 24 March 2005. Applicant has submitted $130 of the $400 petition fee required for the petition under 37 CFR 1.182; Deposit Account No. 06-1130 will be charged the remaining $270.

BACKGROUND

The background for this application was set forth in detail in the decision mailed by this Office on 21 December 2004. In that decision, the declaration filed by applicants on 15 October 2004 was found defective for failure to satisfy the requirements of 37 CFR 1.42 and 37 CFR 1.497. Specifically, the declaration (1) did not include the information required regarding the deceased inventor and his executing heir; and (2) identified as Diem Thuy Thi TRAN the inventor listed on the published international application as Diem TRAN.

On 24 March 2005, applicants filed the "Petition Under 37 CFR 1.182 To Correct The Name Of The Inventor" and the "Renewed Submission Under 37 CFR 1.42" considered herein (with required extension fee). The materials included a revised declaration.

DISCUSSION

1. Petition Under 37 CFR 1.182

Applicants request that the name of the inventor identified in the international application as Diem TRAN be corrected to Diem Thuy Thi TRAN, as listed on the revised declaration. Applicants have submitted the required petition fee. In addition, the petition includes a statement from counsel confirming that the corrected name is the complete name of the inventor identified in the international application as Diem TRAN and that there was no deceptive intent involved in this discrepancy. Correction of the inventor's name is therefore appropriate.

2. Renewed Submission Under 37 CFR 1.42

The revised declaration filed by applicants on 24 March 2005 expressly states that Greta RIMINGTON is the "Sole Heiress and Executrix" of deceased inventor Claude RIMINGTON, and the declaration sets forth the residence, post office address, and citizenship of Greta RIMINGTON, as well as the citizenship of the deceased inventor. The revised declaration therefore contains the required information missing from the previous declaration. The revised declaration is therefore acceptable under 37 CFR 1.42

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

Applicants' petition under 37 CFR 1.182 to correct an inventor's name is **GRANTED**. The name of record for the inventor identified on the international application as Diem TRAN is corrected to Diem Thuy Thi TRAN.

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Claude RIMINGTON 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 24 March 2005.

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PCT Petitions Attorney
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22 JUL 2004

#5

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New York, NY 10018

In re Application of	:	
ZIMMERMAN, et al.	:	DECISION ON PETITION
Application No.: 10/489,567	:	
PCT No.: PCT/DE02/02490	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 08 July 2002	:	
Priority Date: 11 July 2001	:	
Atty. Docket No.: 588.1022	:	
For: METHOD FOR CONTROLLING AND/OR REGULATING A STARTING PROCESS OF A VEHICLE	:	

The petition to revive under 37 CFR 1.137(b) filed 11 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. 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 (DO/EO/US) for treatment in accordance with this decision, specifically the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

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Fax: (703) 308-6459

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In re Application of	:	
Philip Charles Box et al	:	
Application No. 10/489,569	:	
Filed: November 29, 2004	:	
Attorney Docket No. PG4550USW	:	

This is a decision on the petition, filed June 18, 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 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1621 will consider the request for continued examination under 37 CFR 1.114.

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).

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MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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OCT 31 2007

OFFICE OF PETITIONS

In re Application of :
Philip Charles Box et al :
Application No. 10/489,569 :
Filed: November 29, 2004 :
Attorney Docket No. PG4550USW

ON PETITION

This is a decision on the petition, filed October 29, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

15 JUL 2[illegible]

#3

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John E. Nemazi
Brooks Kushman
1000 Town Center, 22nd Floor
Southfield, Michigan 48075

In re Application of	:	
LEVIN, Colin Llan	:	
Application No.: 10/489,582	:	DECISION ON PETITION
PCT No.: PCT/ZA02/00134	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 28 August 2002	:	
Priority Date: 30 August 2001	:	
Attorney Docket No.: GALG0101PUSA	:	
For: FOLDABLE BABY'S CHAIR		

The petition to revive under 37 CFR 1.137(b) filed 12 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 02-3978 will be charged a $65 processing under 37 CFR 1.492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

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

Anthony Smith

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

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CONLEY ROSE, P.C.
600 TRAVIS
SUITE 7100
HOUSTON TX 77002

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Kunow et al.	:	PETITION
Application No.: 10/489584	:	
Filing or 371(c) Date: 08/05/2004	:	
Attorney Docket Number: 1600-09600	:	

This is a decision in response to the Petition to Withdraw Notice of Abandonment, filed March 25, 2008. The petition is properly treated under 37 CFR 1.181.

The Petition is hereby **granted**.

Background

A Notice of Abandonment was mailed on March 6, 2008, indicating that the application became abandoned for failure to timely and properly reply to the final office action, mailed June 15, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

The present petition

Applicant files the pesent petition and asserts that, in view of the Notice of Appeal and subsequent Pre-Appeal Brief Review and Notice of Panel Decision from Pre-Appeal Brief Review, Applicant was given one (1) month from the mail date of the Notice of Panel Decision, or the balance of the two month time period running from receipt of the Notice of Appeal, whichever was greater, to file an appeal brief before the application could be considered abandoned. As such, Applicant asserts that the Notice of Abandonment was mailed in error and requests withdrawal of the Notice.

A review of the application file

The application file reveals that a final Office action was mailed June 15, 2007. Applicant filed a Notice of Appeal in response to the final Office action on September 17, 2007. Thereafter, Applicant filed and was granted a request for Pre-Appeal Brief Review. In a Notice of Panel Decision from Pre-Appeal Brief Review, Applicant was notified that the application remained under appeal, and that the time period for filing an appeal brief would be one (1) month from the mail date of the Notice of Panel Decision, or the balance of the two month time period running

from receipt of the Notice of Appeal, whichever was greater. Here, the Notice of Appeal was filed on September 17, 2007, and the Notice of Panel Decision from Pre-Appeal Brief Review was mailed on October 25, 2007. Applicant thus was given until the greater of November 17, 2007 (plus five (5) months of extensions of time), or November 25, 2007 (plus five (5) months of extensions of time), to file an Appeal Brief.

Applicant filed an Appeal Brief and a five (5) month extension of time request and fee on April 24, 2008.

Analysis and conclusion

Applicant timely filed an Appeal Brief (including the five (5) month extension of time request and fee) on April 24, 2008. Accordingly, the holding of abandonment for failure to timely and properly reply to the final Office action is hereby withdrawn.

The application is being referred to Technology Center Art Unit 2838 for processing of the Appeal Brief, and for further action by the Examiner in the normal course of business..

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/11/07

TO SPE OF : ART UNIT 3679

SN 10/489,587

SUBJECT : Request for Certificate of Correction on Patent No.: 7163237

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

The requested change is approved.

/Daniel P. Stodola/ — **SPE**

3679 — **Art Unit**

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P.O. BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Takashi Yanagisawa :
Application No. 10/489,590 : DECISION ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. JP920010221US1 :

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

The application became abandoned for failure to file a reply to the non-final Office action mailed on November 16, 2006. A Notice of Abandonment was mailed on June 29, 2007.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on July 11, 2007 has not been accepted. It is noted that the form contains the deposit account number of the assignee instead of an appropriate customer number for the change of address and appointment of attorneys/agents. Additionally, the Statement under 37 CFR 3.73(b) filed on July 11, 2007 fails to breakdown the chain of title from the original owners to the current assignee and it contains an incorrect frame number. However, in accordance with 37 CFR 1.34(a), the signature of Erin C. Ming 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.

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

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

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

This application file is being referred to Technology Center Art Unit 2629 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Erin C. Ming
P.O. Box 51418
Palo Alto, CA 94303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 27, 2008

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No. 10/489596 patent no7053739

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1615

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

Mail Date: 04/20/2010

Applicant	: Fumiaki Uehara	: DECISION ON REQUEST FOR
Patent Number	: 7572793	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/489,607	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1190** 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of:	:	
Mark JONES, et al.	:	
Application Serial No.: 10/489,612	:	DECISION
Filed: August 26, 2004	:	ON PETITION
For: **METHOD AND SYSTEM FOR SESSION ACCOUNTING IN WIRELESS NETWORKS**	:	

This is a decision on the petition under 37 CFR 1.181 filed April 27, 2005 to correct published application.

The Petition is **DISMISSED**.

The published application will not be reprinted based upon the "errors" set forth in the petition. However, the preliminary amendment will be entered prior to examination.

The file is being forwarded to the Technology Center's technical support staff for entry of the preliminary amendment filed April 27, 2005. From there, the file will be placed on the examiner's docket to await examination in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of :
Mark Jones et al :
Application No. 10/489,612 :
Filed: August 26, 2004 :
Attorney Docket No. 2467.0070001

ON PETITION

This is a decision on the petition, filed August 12, 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 July 10, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2131 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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/489,621	03/12/2004	Takahiro Matsumoto	Q101076	2302

23373 7590 09/15/2008
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
EPPS FORD, JANET L

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
09/15/2008	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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

SEP 1 5 2008

In re Application of:
Matsumoto et al.
Serial No.: 10/489,621
Filed: March 12, 2004
Attorney Docket No.: Q101076

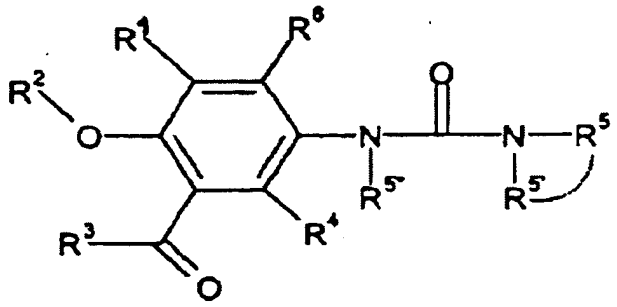
: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed June 23, 2008, requesting that the finality of the Office action of April 29, 2008 be withdrawn.

BACKGROUND

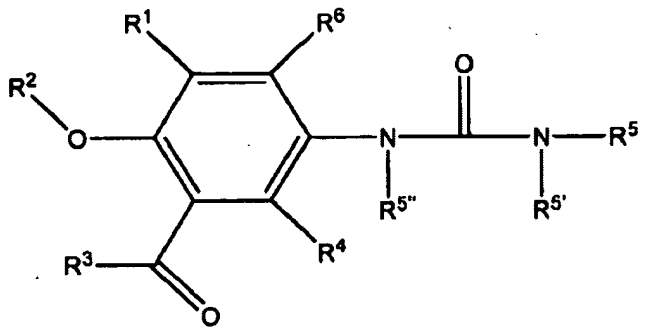
More recently, the examiner mailed a non-final Office action on January 2, 2008 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1, 4, 6, 8, 10-13, 15-18 and 23 were pending and examined on their merits. In this non-final Office action, the examiner instituted a rejection of claims 1, 3, 4, 6-13, 15-18 and 23 under 35 U.S.C. § 112, second paragraph. It is noted here that claims 3, 7 and 9 were actually cancelled at the time the non-final Office action of January 2, 2008 was mailed. Hence, the rejection of claims 3, 7 and 9 was an inadvertent error.

Claim 1, at the time the non-final Office action of January 2, 2008 was mailed, recited the following compound:



Specifically, the examiner rejected claims 1, 3, 4, 6-13, 15-18 and 23 under 35 U.S.C. § 112, second paragraph, because "...the above structure requires that $R^{5'}$ and R^5 form a ring structure...However, the definition of R^5 on page 10 of the claims as filed 10/05/2007 is that "[*sic*] $R^{5'}$ represents a hydrogen atom. The above structure is therefore technically incorrect since R^5 cannot form a ring structure with a hydrogen atom, therefore the metes and bounds of formula (I) recited above is [*sic*] vague and indefinite" (p. 3, non-final Office action).

In response to the non-final Office action of January 2, 2008, applicants replied on January 22, 2008 submitting an amendment to claim 1. Specifically, applicants amended the compound of claim 1 to read:



This compound therefore, did not require R^5 and $R^{5'}$ to form a cyclic bond.

Applicants, in light of the amendment to claim 1, requested the withdrawal of the rejection of claims 1, 4, 6, 8, 10-13, 15-18 and 23 under 35 U.S.C. § 112, second paragraph, for lacking definiteness as instituted by the examiner in the non-final Office action of January 2, 2008.

The examiner mailed a final Office action on April 29, 2008 setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 4, 6, 8, 10-13, 15-18 and 23 were pending and were examined on their merits. In this action, the examiner withdrew the previous rejection of claims 1, 4, 6, 8, 10-13, 15-18 and 23 under 35 U.S.C. § 112, second paragraph. The examiner also rejected claim 11 under 35 U.S.C. § 112, second paragraph, for being indefinite for lacking antecedent basis and further rejected claims 1, 4, 6, 8, 10-13 and 15-18 and 23 under 35 U.S.C. § 103(a): "Claims 1, 4, 6, 8, 10-13, and 15-18, and 23 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al. taken with Almotrefi et al. and Guan et al., in further view of each Wu et al. (General Pharmacology, 2000, 34: 321-328), Ridder et al. (BJU International, 2000, 86: 172-180), and Kaisary (Journal d'Urologie, 1984, 90: 351-353) for the reasons of record set forth in the prior Office actions".

In response thereto, applicants filed this petition under 37 CFR § 1.181 on June 23, 2008, requesting that the finality of the Office action of April 29, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on June 23, 2008, applicants argue that the final Office action mailed on April 29, 2008 was premature and improper and request that the finality of said Office action be removed.

Specifically, applicants argue that the rejection of claim 11 under 35 U.S.C. § 112, second paragraph, for being indefinite for lacking antecedent was a new ground of rejection not necessitated by applicants' amendments to the claims submitted by applicants on January 22, 2008. Applicants contend:

> ...[C]laim 11 was not amended in the last Amendment filed January 22, 2008 and although claim 1 was amended, no changes were made to the definition of R2. Therefore, the new ground of rejection raised in the final Office Action dated April 29, 2008 was not necessitated by Applicants' amendment

However, although claim 11 was not amended in the amendment filed by applicants on January 22, 2008, applicants' amendment to claim 1 rendering the compound of formula 1 definite, and subsequently examinable, necessitated the rejection of the indefinite embodiment set forth in claim 11. The examiner stated in the original rejection of claims 1, 3, 4, 6-13, 15-18 and 23 under 35 U.S.C. § 112, second paragraph, that a search of the prior art "...was not possible due to the ambiguity associated with the definition of R5' substituents in formula (I), and the formation of ring structure comprising –N, $R^{5'}$ and R^5 as required in formula (I)..." (p. 4, non-final Office action of January 2, 2008). Considering the large number of embodiments associated with the variable constituents on the compound as recited in claim 1, it would be unreasonable for the examiner to thoroughly examine the dependant claims for a compound which could not have existed.

Appicants further argue that the rejection of claims 1, 4, 6, 8, 10-13, 15-18 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Wolf et al. taken with Almotrefi et al. and Guan et al., in further view of each Wu et al. (General Pharmacology, 2000, 34: 321-328), Ridder et al. (BJU International, 2000, 86: 172-180), and Kaisary (Journal d'Urologie, 1984, 90: 351-353):

> ...[I]is considered a new ground of rejection, since this rejection while previously raised in the Office Action dated May 15, 2007, was withdrawn in the Action dated January 2, 2008...neither the amendment to claim 1 to correct the structure of formula (I) nor the amendment to claim 15 to correct the partial structure recited therein in the Amendment filed January 22, 2008, necessitated the reintroduction of the previously withdrawn § 103 rejection. It is improper for the Examiner to reintroduce a previously withdrawn rejection and to make the Action final where the rejection is not necessitated by Applicant's amendment. (page 2, petition).

However, in the non-final Office action mailed by the examiner on January 2, 2008, the examiner recognized that formula (I) of claim 1 was indefinite because the only definition for $R^{5'}$ in claim 1 was a hydrogen atom, and a hydrogen atom cannot form a cyclic ring structure as was required by claim 1 at the time the non final Office action was mailed. The examiner clearly set forth on the record that this compound was not searchable and the examiner implies that the compound could not have existed. Thus, the prior art rejection made in the final Office action of April 29, 2008 was properly not made by the examiner in the non-final Office action of January 2, 2008 because it is plainly evident that the prior art would not have been applicable considering that the compound could not have existed. Applicants' amendment to claim 1 on January 22, 2008, rendering claim 1 definite thus necessitated the examiner's rejection of claims 1, 4, 6, 8, 10-13, 15-18 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Wolf et al. taken with Almotrefi et al. and Guan et al., in further view of each Wu et al. (General Pharmacology, 2000, 34: 321-328), Ridder et al. (BJU International, 2000, 86: 172-180), and Kaisary (Journal d'Urologie, 1984, 90: 351-353.

Thus, applicants' arguments are not found persuasive that the final Office action rendered on April 29, 2008 was improper and the finality of said Office action will not be removed.

DECISION

The petition is **DENIED.**

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

George C. Elliott

George Elliott
Director, Technology Center 1600

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GREG ORME
310 OAKWOOD LOVE
LA VERGNE, TN 37086-4130

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Orme, Gregory Michael	:	
Application No. 10/489,638	:	ON PETITION
Filed: March 16, 2004	:	
Title: CONSTRUCTION METHODS IN SPACE	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 7, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 3600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

10 FEB 2005

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Lawrence C. Bonar
917 Logan Street
Port Townsend, WA 98368-2337

In re Application of	:	
DAVIS et al.	:	
Application No.: 10/489,642	:	DECISION ON
PCT No.: PCT/CA02/01413	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 16 September 2002	:	
Priority Date: 17 September 2001	:	
Attorney Docket No.: DA-01	:	
For: UNDERWATER DUCTED TURBINE	:	

This decision is in response to applicants' "Submission of Substitute Declarations" filed 27 September 2004, which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 16 September 2002, applicants filed the above-identified international application which claimed a priority date of 17 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 March 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 17 March 2004.

On 15 March 2004, 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 copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv). (The Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) was not submitted within the time limits set forth in PCT Rule 26ter.)

On 26 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an additional claims fee of $187. The notification set a two-month time limit in which to respond.

On 27 August 2004, applicants filed "Response to Notification of Missing Requirements under 37 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) which included the additional claims fee. Additionally, applicants filed "Correction of Filing Receipt Information" which stated that "applicant Barry V. Davis is deceased . . . "

On 27 September 2004, applicant filed "Submission of Substitute Declarations." The declaration filed was executed by: Emmanuel Grillos and Stephen Allison as inventors and Lena Marie Davis on behalf of deceased inventor, Barry V. Davis.

On 06 January 2005, applicants filed a preliminary amendment.

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 27 September 2004 was executed by Lena Marie Davis as "widow and beneficiary" to the deceased inventor, Barry V. Davis. However, the declaration does not state that Lena Marie Davis is the sole heir or legal representative of the deceased inventor. Absent a statement that the signing heir is the sole heir of the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42.

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 27 September 2004 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the heir or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

Additionally, the declaration submitted on 27 September 2004 is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with petition includes multiple duplicate sheets. It is unclear if the inventors were presented with their signature, in which case the execution

would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

CONCLUSION

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

Applicants are 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
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12 JUL 2005

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Port Townsend, WA 98368-2337

In re Application of	:	
DAVIS et al.	:	
Application No.: 10/489,642	:	DECISION ON
PCT No.: PCT/CA02/01413	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 16 September 2002	:	
Priority Date: 17 September 2001	:	
Attorney Docket No.: DA-01	:	
For: UNDERWATER DUCTED TURBINE	:	

This decision is in response to applicants' "Response to Decision on Papers under 37 CFR 1.42 " filed 06 May 2005. No petition fee is required.

BACKGROUND

On 16 September 2002, applicants filed the above-identified international application which claimed a priority date of 17 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 March 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 17 March 2004.

On 15 March 2004, 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 copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv). (The Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) was not submitted within the time limits set forth in PCT Rule 26ter.)

On 26 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an additional claims fee of $187. The notification set a two-month time limit in which to respond.

On 27 August 2004, applicants filed "Response to Notification of Missing Requirements under 37 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) which included the additional claims fee. Additionally, applicants filed "Correction of Filing Receipt Information" which stated that "applicant Barry V. Davis is deceased . . . "

On 27 September 2004, applicants filed "Submission of Substitute Declarations." The declaration filed was executed by: Emmanuel Grillos and Stephen Allison as inventors and Lena Marie Davis on behalf of deceased inventor, Barry V. Davis.

On 06 January 2005, applicants filed a preliminary amendment.[1]

In a decision dated 10 February 20005, applicants' request under 37 CFR 1.42 was refused.

On 06 May 2005, applicants filed "Response to Decision on Papers under 37 CFR 1.42."

DISCUSSION

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

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

The declaration filed on 06 May 2005 is executed by Lena Marie Davis as the "legal representatives and sole heir" of the deceased inventor, Barry V. Davis. 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 06 May 2005 provides the citizenship for only one individual and it is unclear whether this information is for the legal representatives or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

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[1]Applicant requests that the application file be corrected to show that the preliminary amendment was filed on 12 July 2004. However, applicant has failed to provide evidence that the preliminary amendment was received on the requested date.

CONCLUSION

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

Applicants are 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.

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30 AUG 2005

#10

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Lawrence C. Bonar
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In re Application of DAVIS et al. Application No.: 10/489,642 PCT No.: PCT/CA02/01413 Int. Filing Date: 16 September 2002 Priority Date: 17 September 2001 Attorney Docket No.: DA-01 For: UNDERWATER DUCTED TURBINE	DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to applicants' "Response to Decision on Papers under 37 CFR 1.42" filed 24 August 2005. No petition fee is required.

BACKGROUND

On 16 September 2002, applicants filed the above-identified international application which claimed a priority date of 17 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 March 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 17 March 2004.

On 15 March 2004, 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 copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv). (The Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) was not submitted within the time limits set forth in PCT Rule 26ter.)

On 26 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an additional claims fee of $187. The notification set a two-month time limit in which to respond.

On 27 August 2004, applicants filed "Response to Notification of Missing Requirements under 37 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) which included the additional claims fee. Additionally, applicants filed "Correction of Filing Receipt Information" which stated that "applicant Barry V. Davis is deceased . . ."

On 27 September 2004, applicants filed "Submission of Substitute Declarations." The declaration filed was executed by: Emmanuel Grillos and Stephen Allison as inventors and Lena Marie Davis on behalf of deceased inventor, Barry V. Davis. In a decision dated 10 February 20005, applicants' request under 37 CFR 1.42 was refused.

On 06 May 2005, applicants filed "Response to Decision on Papers under 37 CFR 1.42." In a decision dated 12 July 2005, applicants' request under 37 CFR 1.42 was refused.

On 24 August 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 filed on 24 August 2005 is executed by Lena Marie Davis as the "legal representatives and sole heir" of the deceased inventor, Barry V. Davis. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 24 August 2005.

CONCLUSION

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

The 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
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Fax: (571) 273-0459

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MILLER NASH LLP
601 Union Street
Suite 4400
Seattle WA. 98101-2352

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Barry V. Davis et al	:	
Application No. 10/489,642	:	DECISION ON PETITION
Filed: March 15, 2004	:	TO MAKE SPECIAL
Attorney Docket No. 529670-0001	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(ii), filed February 13, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition complies with the conditions required under category (A), the development of energy resources by the generation of electrical power from water flow and a hydro turbine. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Thurman K. Page at 571-272-0602.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2834 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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NXP, B.V.
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1109 MCKAY DRIVE
SAN JOSE CA 95131

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DEC 18 2008

In re Application of	:	
Pieter Willem Jedeloo	:	
Application No. 10/489,646	:	DECISION ON PETITION
Filed: March 15, 2004	:	
Attorney Docket No. NL 010656	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 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 November 5, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 6, 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 $1,620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2618 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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JUL 21 2006

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

In re Application of	:
Hanne Anette Moesgaard et al	:
Serial No.: 10/489,655	: PETITION TO MAKE SPECIAL
Filed: May 12, 2004	:
Attorney Docket No.: 2004_0381A	:

This is in response to applicants' petition filed July 10, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

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

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

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 05/28/2010

Applicant	: Hanne Anette Moesgaard	: DECISION ON REQUEST FOR
Patent Number	: 7652030	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/489,655	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **244** 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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WASHINGTON, DC 20037

Mail Date: 04/27/2010

Applicant	: Yasuhiro Zaima	: DECISION ON REQUEST FOR
Patent Number	: 7611078	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/489,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1437** 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 SEP 2004

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Nath & Associates PLLC
Sixth Floor
1030 15th Street, NW
Washington, DC 20005

In re Application of GOOR, Daniel et al. Application No.: 10/489,670 PCT No.: PCT/IL02/00232 Int. Filing Date: 21 March 2002 Priority Date: 02 April 2001 Docket No.: 26016 For: DEVICE FOR DETERMINING HEMODYNAMIC STATE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition to Revive Unintentionally Abandoned Application Under 37 CFR §1.137(b)," filed in the above-captioned application on 16 March 2004 is **GRANTED**.

Applicants state 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 petition fee and basic national 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: 571-272-3292
Facsimile: 571-273-0459

12 JUL 2005

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In re Application of:	:	
KROPP, Jorg-Reinhardt	:	
U.S. Application No.: 10/489,683	:	DECISION ON REQUEST
PCT No.: PCT/DE01/03603	:	FOR CORRECTED FILING
International Filing Date: 14 September 2001	:	RECEIPT
Priority Date: None	:	
Attorney's Docket No.: INFMN-023	:	
For: TRANSMITTER AND/OR RECEIVER	:	
ARRANGEMENT FOR OPTICAL	:	
SIGNAL TRANSMISSION	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 09 May 2005. No petition fee is required.

BACKGROUND

On 14 September 2001, applicant filed international application PCT/DE01/03603 which did not claim an earlier priority date and which designated the United States. On 03 April 2003, 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., 14 March 2004.

On 12 March 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee, a translation of the international application into English, and a substitute specification (including claims).

On 23 July 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 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 22 September 2004, applicant filed a response to the Notification Of Missing Requirements that included the required surcharge and an executed declaration.

On 21 October 2004, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/905) and filing receipt.

On 09 May 2005, applicant filed the "Request For Corrected Filing Receipt" considered herein, seeking correction in the title of the application and the number of total claims and independent claims indicated as being contained in the application.

DISCUSSION

1. Application Title

The title of the application indicated on the published international application is "Transmitter And/Or Receiver Arrangement For Optical Signal Transmission." This title is also listed on the Application Data Sheet (ADS) filed by applicants.

The title on the filing receipt mailed 21 October 2004 substitutes the word "of" for the word "for" in the title. Applicant asks that this error be corrected to correspond with the title of record. This correction is appropriately entered.

A corrected filing receipt is issued herewith that identifies the proper title, that is, "Transmitter And/Or Receiver Arrangement For Optical Signal Transmission."

2. Number Of Claims

The filing receipt states that the application contains 18 total claims, one of which is independent. This corresponds to the claims as amended during the international phase under Article 34 (the amended claims are attached as annexes to the International Preliminary Examination Report, and applicant has provided a translation into English of these pages).

Applicant requests that the filing receipt be corrected to indicate that the application contains 20 total claims, three of which are independent. This would correspond to the claims as purportedly amended by the substitute specification filed with the national stage materials on 12 March 2004. However, as set forth in 37 CFR 1.121(b)(3), amendment by substitute specification is only permissible with respect to the "specification, **other than the claims**" (emphasis added).[1] In addition, the attempted amendment of the claims is directed to the original 20 claims in the international application, not the 18 claims of record, as amended during the international phase (see 37 CFR 1.121(c) regarding the required procedure for amending claims).

Based on the above, there are presently 18 total claims of record (one independent). The filing receipt is therefore correct with respect to the number of claims.

---

[1] It is noted that amendments to the specification (as opposed to the claims) made by substitute specification are only entered if, upon review by the examiner, it is determined that entry of such amendments are appropriate. The present decision does not address whether the amendments to the specification contained in the substitute specification filed here will be entered in the present application. That determination will be made later when the application is examined in the group art unit.

CONCLUSION

Applicant's "Request For Corrected Filing Receipt" is **GRANTED** to the extent that the title is hereby corrected.

For the reasons discussed above, that portion of the request addressed to changing the number of claims listed on the filing receipt is **DISMISSED** without prejudice.

The claims of record remain the 18 total claims as amended under Article 34 during the international phase and annexed to the International Preliminary Examination Report.

A corrected filing receipt is mailed herewith indicating the corrected title of the application.

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

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Eric Fassiau, et. al.	:	
Application No. 10/489,687	:	ON PETITION
Filed: March 12, 2004	:	
Attorney Docket No. 250416US6PCT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 3, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 3, 2006. A Notice of Abandonment was mailed on September 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 an amendment and amendment to the specification; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1732, for review of the amendment and amended specification filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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JUN 14 2006
OFFICE OF PETITIONS

In re Application of
Loktev et al.
Application No. 10/489,692
Filed: August 16, 2004
Title of Invention: Electrical Water Heating Device with Large Contact Surface

ON PETITION

This is a decision on the petition filed January 4, 2006, under 37 CFR 1.137(a) to revive the above-identified application

The petition to revive under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed June 3, 2005. The Restriction Requirement set a one (1) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on July 4, 2005. A Notice of Abandonment was mailed on December 12, 2005.

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 registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition has only been executed by inventor Loktev. Inventor Papirov also needs to execute the petition. Further it is also noted that the complete petition fee has not been submitted. Petitioner has submitted $55.00 towards the petition fee. The current unavoidable petition fee for small entity is $250.00. Since petitioner is not eligible for extension of time the $ 55.00 submitted can be applied to the petition fee. As of today's mailing date the Office in receipt of $110.00.[1] On renewed petition the $140.00 difference must be submitted.

The Petition has **not** been reviewed on its merits.

Petitioner is also advised that the change of address submitted with the petition will not be entered because it has not been executed pursuant to 37 CFR 1.33(b). A courtesy copy of this petition decision will be forwarded to the petitioner. However, all future correspondence will be sent to the correspondence address of record until a proper change of correspondence address has been submitted.

---

[1]If petitioner has received a refund or receives a refund of $110.00 between the reply to the petition, petitioner will need to submit the full $250.00 petition to revive fee.

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 should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Irina Koktev
13/16 Sayeret Duhifat St.
Jerusalem, 97530
Israel

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OFFICE OF PETITIONS

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

In re Application of :
Ehud Gal, et al. :
Application No. 10/489,698 : ON PETITION
Filed: September 21, 2004 :
Attorney Docket No. U 015081-3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 3, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination 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 February 4, 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 $750; 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 2873 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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183 EAST MAIN STREET
1323 ALLIANCE BUILDING,
ROCHESTER, NY 14604

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OFFICE OF PETITIONS

In re Application of :
Matteo Casazza, et al. :
Application No. 10/489,726 : ON PETITION
Filed: March 12, 2003 :
Attorney Docket No. None :

This is a decision in response to the petition, filed July 10, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 14, 2005. A Notice of Abandonment was mailed on May 1, 2006. On July 10, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,500.00; and (3) the requisite 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. However, in accordance with 37 CFR 1.34(a), the signature of David E. Henn appearing on the petition 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.

The application is being referred to Technology Center AU 2834 for consideration of the amendment filed July 10, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WASHINGTON, D.C. 20231
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9-4-07

caf

In re Application of: Frank Lian :
Application No. 10/489,737 : DECISION ON
Filed: March 16, 2004 : PETITION
For: ADHESIVE TAPE USED AS AN AID WHEN APPLYING :
CAULK OR GROUT IN CERAMIC TILE CORNERS :

This is a decision on the PETITION TO RESET PERIOD FOR REPLY filed on August 10, 2007.

On April 27, 2007, a final rejection was mailed to Applicant. A three month shortened statutory period was given to respond.

On August 10, 2007, the instant petition was filed to formally request that the time period set in the April 27, 2007 office action be reset.

DECISION

Petitioner has included with the instant petition, docketing records showing that the April 27, 2007 office action was never received. The showing is sufficient. Accordingly, the petition for re-mailing the office action setting a new period for reply is **GRANTED.**

The office action will be mailed under separate cover.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CHRISTIAN D. ABEL
ONSAGERS AS
POSTBOKS 6963 ST. OLAVS PLASS
NORWAY N-013-0 NO NORWAY

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13 JAN 2006

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

In re Application of	:	
UNDERHILL, Michael Tulley et al.	:	
Application No.: 10/489,750	:	DECISION ON
PCT No.: PCT/CA02/01421	:	
Int. Filing Date: 17 September 2002	:	PETITION
Priority Date: 17 September 2001	:	
Attorney Docket No.: 3477-108	:	UNDER 37 CFR 1.10(d)
For: RETINOID RECEPTOR ...	:	
STIMULATING CHONDROGENESIS	:	

This decision is in response to applicant's "Request For Corrected Filing Receipt," filed on 11 October 2004. It has been treated as a petition under 37 CFR 1.10(d).

BACKGROUND

On 17 September 2002, applicant filed international application PCT/CA02/01421, claiming a priority date of 17 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 March 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 17 March 2004.

On 16 March 2004, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 22 July 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.

Applicant submitted a transmittal letter accompanied by an executed declaration. The declaration was accorded a receipt date of 27 August 2004.

On 21 September 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 27 August 2004.

On 11 October 2004, applicant submitted the instant petition under 37 CFR 1.181, accompanied by an Express Mail label and a printout from the USPS Track and Confirm database.

DISCUSSION

In the instant petition, applicant requests that the receipt date of the declaration be amended to 26 August 2004. The Express Mail mailing label lists the "date in" as 27 August 2004.

Applicant argues that the application was submitted to the USPS on 26 August 2004. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the"date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied items (1), (2) and (3). The petition was filed promptly and the papers in the file reflect the mailing label number. Applicant has furnished a print out from USPS track and confirm database indicating the package was accepted by USPS on 26 August 2004.

Applicant also requests a corrected filing receipt reflecting a 26 August 2004 date. The "filing date" on the filing receipt of a national stage application is the date upon which applicant completes the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). MPEP §1893.03 (b) (May 2004). Those requirements were satisfied on 26 August 2004.

CONCLUSION

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

The Notice of Acceptance mailed 21 September 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 26 August 2004.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

19 AUG 2005

#4

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Jeremy R. Kriegel
Marshall, Gerstein & Borun, LLP
233 South Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

In re Application of	:	
SOERENSEN ET AL	:	
U.S. Application no.: 10/489,761	:	
PCT No.: PCT/DK02/00602	:	
Int. Filing Date: 20 August 2004	:	DECISION ON REQUEST
Priority Date: 22 August 2003	:	
Attorney Docket No.: 26788-014	:	
For: SUCTION HEAD FOR CLEANING OF THE SURFACE OR CARCASS PARTS		

This decision is in response to applicants' "Request for Withdrawal of Petition for Acceptance of an Unintentionally Delayed Claim for Benefit of a Prior-Filed Application under 35 U.S.C. 120 and Request for Refund of Petition Fee" filed 03 November 2004.

On 16 August 2004, applicants filed "Petition for Acceptance of an Unintentionally Delayed Claim for Benefit of a Prior-Filed Application under 35 U.S.C. 120" and an executed declaration. Subsequently, applicants filed "Request for Withdrawal of Petition for Acceptance of an Unintentionally Delayed Claim for Benefit of a Prior-Filed Application under 35 U.S.C. 120 and Request for Refund of Petition Fee."

Applicants' request for withdrawal of the Petition for Acceptance of an Unintentionally Delayed Claim for Benefit of a Prior-Filed Application under 35 U.S.C. 120 is acknowledged and the $1330 petition under 37 CFR 1.78 will be refunded to Deposit Account no. 13-2855.

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

Anthony Smith

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

21 JUN 2005

#6

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

In re Application of	:	
OKUBO et al.	:	
Application No.: 10/489,779	:	NOTIFICATION REGARDING
PCT No.: PCT/JP04/00019	:	REQUEST FOR EARLY
Int. Filing Date: 07 January 2004	:	PROCESSING UNDER
Priority Date: 24 October 2003	:	35 U.S.C. 371
Attorney Docket No.: 250447US2PCT	:	AND PETITION
For: POWER SUPPLY UNIT, GENERATOR, AND WIND TURBINE GENERATOR	:	UNDER 37 CFR 1.181

This notification is in response to "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed 16 May 2005. No petition fee is required.

On 07 January 2004, applicants filed the above-captioned international application which claimed a priority date of 24 October 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 May 2005. Pursuant to 37 CFR 1.495, the deadline for payment the basic national fee in the United States of America is set to expire at midnight on 24 April 2006.

On 17 March 2004, 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; and an application data sheet.

On 27 July 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 15 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 27 July 2004 within the time period set therein.

On 16 May 2005, applicants filed "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment."

DISCUSSION

As stated above, the deadline for payment of the basic national fee is to expire 30 months from the priority date, or at midnight on 24 April 2006. On 17 March 2004, applicants submitted a transmittal letter for entry into the national stage in the United States and requested early examination pursuant to 35 U.S.C. 371(f). Because all the requirements under 35 U.S.C. 371(c) had not been met, national stage processing should not have commenced until the expiration of 30 months from the priority date, 24 April 2006. Therefore, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) and the Notification of Abandonment under 35 U.S.C. 371 (Form PCT/DO/EO/909) were mailed in error and are vacated.

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 27 July 2004 and the Notification of Abandonment mailed 15 March 2005 are hereby **VACATED**. The holding of Abandonment is withdrawn.

The application is being forwarded to the United States Designated/Elected Office to await expiration of 30 months from the priority date, after which national stage processing will resume.

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

17 OCT 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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Christopher M Tobin
C/O Collier Shannon Scott PLLC
3050 K Street NW
Suite 400
Washington DC 20007

In re Application of WILLIAMS et al. Serial No.: 10/489,783 PCT No.: PCT/GB02/04262 Int. Filing Date: 19 September 2002 Priority Date: 21 September 2001 Attorney's Docket No.: 59015-00602 For: TELECOMMUNICATIONS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 18 May 2005 and refiled via facsimile on 05 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required US national phase application within thirty months of the first filing until the filing of a grantable petition pursuant to this paragraph was unintentional" meets the requirements of 37 CFR 1.137(b).

A review of the application file reveals that an executed declaration, in compliance with 37 CFR 1.497(a) and (b), was provided in response to the Notification of Missing Requirements mailed 02 August 2004. The petition fee of $1500 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 18 May 2005.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

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OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Patent No. 7,104,530	:	
Issued: September 12, 2006	:	DECISION ON APPLICATION
Application No. 10/489,785	:	FOR PATENT TERM ADJUSTMENT
Filed: March 17, 2004	:	
Atty. Dkt. No.: 011765-0308767	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 C.F.R. § 1.322," filed September 28, 2006. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(d).

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

The above-identified application matured into U.S. Patent No. 7,104,530 on September 12, 2006. The instant request for reconsideration was timely filed September 28, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of zero days. Patentees request that the adjustment be corrected to reflect an adjustment of 26 days.

The correct PTA at the time of the allowance is zero days, as indicated on the patent.

An adjustment of 58 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 58 days was properly reduced 32 days in accordance with 37 CFR 1.704(b) in connection with the response after non-final action submitted February 13, 2006.

The adjustment of 58 days was further properly reduced 49 days in accordance with 37 CFR 1.704(c)(10) in connection with the drawings submitted July 26, 2006.

In view thereof, at the time of allowance, the application was entitled to an adjustment of zero days.

The required Patent Term Adjustment application fee of $200.00 has been charged to patentees' deposit account as authorized.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136 are not available.

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

Kery Fries

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

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MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of
Philippe Charbonnier
Application No. 10/489,801
Filed: September 21, 2004
Attorney Docket No. 33155.20

ON PETITION

This is a decision on the petition filed April 30, 2007 and resubmitted April 24, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

The application was held abandoned on December 27, 2006 for failure to timely a response to the non-Final Office Action mailed September 25, 2006. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on April 10, 2007.

Petitioner asserts that a proper response in the form of an amendment was filed on December 22, 2006. Submitted as proof is a a copy of the response said to have been filed on December 22, 2006.

A search of the application file and the USPTO records reveals that in fact, an amendment was timely filed on December 26, 2006, with a December 22, 2006 certificate of mail date, and are of record.

Accordingly, the Notice of Abandonment mailed April 10, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2617 for treatment of the response filed December 26, 2006 (December 22, 2006 certificate of mail date).

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090323

DATE :

TO SPE OF : ART UNIT

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

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

29 SEP 2004

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Hale and Dorr LLP
60 State Street
Boston, MA 02109

In re Application of	:	
Howard et al.	:	
Application No. 10/489,846	:	DECISION ON
PCT No.: PCT/US02/27838	:	
Int. Filing Date: 31 August 2002	:	PETITION UNDER
Priority Date: 31 August 2001	:	
Atty. Docket No.: 286638.122US2	:	37 CFR 1.137(b)
For: Method For Combustion	:	
Synthesis Of Fullerenes	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 16 March 2004.

BACKGROUND

This international application was filed on 31 August 2002, claimed an earliest priority date of 31 August 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 01 March 2004 (since 29 February 2004 was a Sunday). This international application became abandoned with respect to the United States for failure to timely pay the requisite 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 a statement that "the entire delay in furnishing a copy of the application and payment of the national fee to the U.S. Designated/Elected Office (DO/EO/US) within the applicable time limit under 37 CFR 1.495(b) 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**.

Counsel's Deposit Account No. 08-0219 is being charged in the amount of $65.00 for the surcharge under 37 CFR 1.492(e), as authorized by the instant petition.

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 and a surcharge under 37 CFR 1.492(e).

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

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Technology Center 2100

C. Irvin McClelland
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria,VA 22314

In re Application of:
TAKASHI NOMURA, et al.
Application No. 10/489,852
Filed: April 2, 2004
For: INFORMATION PROCESSING APPARATUS AND METHOD, AND PROGRAM

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

This is a decision on the petition filed on January 11, 2007 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the Form PTO-1449s filed with the Information Disclosure Statements (IDSs) on March 23, 2004 and September 15, 2004.

The petition is **GRANTED**.

BACKGROUND

A final office action was mailed on November 1, 2006 stating that the IDSs filed on the dates stated failed to comply with provisions of 37 CFR § 1.98 and MPEP § 609 because no English translation was provided per 37 CFR 1.98. Furthermore, the office action stated that no consideration was given to the information referred to therein.

A petition was filed by the applicant on January 11, 2006 requesting the references listed on Form-1449s filed with the IDSs filed stated be considered. The petition stated that the information listed on a Form 1449 was not in English language, but the references should be considered because the applicant contends that an English-language version of a search report noting the cited references may function as a statement of relevancy for the references.

REGULATIONS AND PRACTICE

MPEP § 609 states the following:

> Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the

reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report.

OPINION

In light of the above regulations, the petition filed on January 11, 2007 is **GRANTED**.

The application will be forwarded to the examiner for consideration of the references listed on the Form PTO-1449s filed with the IDSs on March 24, 2004 and September 15, 2004

Any inquiry concerning this decision should be directed to John Follansbee at (571) 272-3964.

John Follansbee
WorkGroup QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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

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MAY 3 1 2005

OFFICE OF PETITIONS

Applicant: Petereit et al.
Appl. No.: 10/489,856
Filing Date: March 23, 2004
Title: GRANULATE OR POWDER FOR PRODUCING COATING OR BINDING AGENTS FOR MEDICAMENTS
Attorney Docket No.: 24725US0PCT
Pub. No.: US 2004/0249035 A1
Pub. Date: December 9, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on January 21, 2005, for the above-identified application.

The request is granted.

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

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

10 JAN 2005

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

In re Application of	:	
Toshimitsu et al.	:	
Application No. 10/489,866	:	
PCT No.: PCT/JP02/09868	:	
Int. Filing Date: 25 September 2002	:	DECISION
Priority Date: 25 September 2001	:	
Atty. Docket No.: 250551US0XPCT	:	
For: Recombinant Anti-Osteopontin	:	
Antibody And Use Thereof	:	

This is in response to the letter concerning fee payments filed on 17 September 2004.

BACKGROUND

This international application was filed on 25 September 2002, claimed an earliest priority date of 25 September 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 03 April 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 25 March 2004.

On 24 March 2004, applicants filed, *inter alia*, the basic national fee.

DISCUSSION

Counsel requests the refund of $430.00 charged to his Deposit Account for fee code 1614 (which relates to extra independent claims over three), on the basis that the fee for extra independent claims was allegedly included in a $1800.00 credit card payment made on 24 March 2004.

Review of the official records of the USPTO reveals that, even though applicants had authorized fees in this case to be charged to counsel's credit card, the $430.00 due for extra independent claims over three (fee code 1614) was charged to counsel's deposit account instead of to counsel's credit card. The Transmittal Letter filed on 24 March 2004 authorized fees to be charged to counsel's deposit account. In view of all of these facts, since applicant has not overpaid, a refund would not be appropriate.

DECISION

The petition for refund is **DISMISSED**, without prejudice.

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.

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

#3

16 AUG 2004

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FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of
DENG, Guofeng
U.S. Application No.: 10/489,881
PCT No.: PCT/CN02/00504
Int. Filing Date: 18 July 2002
Priority Date: 18 July 2001
Attorney Docket No.: 17383-002US1
For: A CONTINUOUSLY VARIABLE TIMED AND CROSS-SECTIONAL CONTROL DEVICE

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's "Petition to Revive an Unintentionally Abandoned International Application Designating the U.S. Under 37 CFR 1.137(b)" filed with the national stage papers on 17 March 2004 is hereby **GRANTED** as follows:

The appropriate petition fee of $665.00 for a small entity has been paid. Applicant states that "the entire period of delay was unintentional." This has been interpreted as meaning that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this interpretation is incorrect, the applicant should notify the office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed declaration in compliance with 37 CFR 1.497(a) and (b) was submitted with the national stage papers on 17 March 2004. The surcharge fee of $65.00 and processing fee of $130.00 have been paid.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 July 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 March 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

#5

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29 SEP 2006

Daniel W. Sullivan
Barlow Josephs & Holmes Ltd.
101 Dyer Street, 5th Floor
Providence, RI 02903

In re Application of	:	
CONSTANTINE, Alan	:	
Application No.: 10/489,890	:	DECISION ON
PCT No.: PCT/GB02/04246	:	
Int. Filing Date: 18 September 2002	:	PETITION
Priority Date: 18 September 2001	:	
Docket No.: WOO4 P01033-US	:	UNDER 37 CFR 1.181
For: APPLICATOR FOR LABELLING	:	
APPARATUS	:	

This decision is in response to "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a)," filed in the above-captioned application on 09 June 2006.

BACKGROUND

On 18 September 2002, applicants filed international application no. PCT/GB02/04246, claiming a priority date of 18 September 2001. A copy of the international application was transmitted to the Office by the International Bureau on 27 March 2003. The thirty month deadline for payment of the basic national fee in the United States was midnight, 18 March 2004.

On 17 March 2004, applicants submitted a transmittal letter for entry into that national phase in the United States accompanied by the basic national fee.

On 30 July 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 May 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned, but without listing a reason.

On 09 June 2006, applicants submitted this petition under 37 CFR 1.181, accompanied by a copy of a declaration, a postcard receipt for the declaration stamped "14 September 2004" and a statement that the declaration is a copy of the one submitted to the Office.

DISCUSSION

The declaration that applicants claim to have submitted on 14 September 2004 is not present in the application. A petition to accept a copy of a claimed earlier must be accompanied by a copy of what applicants claim they earlier submitted and proof of the earlier submission.

Applicants have provided a declaration, state that the declaration is a copy of the 14 September 2004 submission and have provided a postcard receipt date-stamped by the Office and listing the declaration. The copy of the declaration is accepted as having been received on 14 September 2004.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 19 May 2006 is **VACATED**.

This application is being forwarded to the National Stage processing division of the Office of PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 14 September 2004.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

06 AUG 2004

#4

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Kenneth A. Weber
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of	:	
TARTAKOVSKY, Boris	:	
Application No.: 10/489,902	:	DECISION ON PETITION
PCT No.: PCT/IL02/00046	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 17 January 2002	:	
Priority Date: 19 January 2001	:	
Attorney Docket No.: 016866-011600US	:	
For: METHODS AND COMPOSITION FOR DIAGNOSING AND TREATING A SUBJECT HAVING DEPRESSION		

The petition to revive under 37 CFR 1.137(b) filed 17 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **17 March 2004**.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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OFFICE OF PETITIONS

MARGER JOHNSON & MCCOLLOM PC
210 SW MORRISON STREET SUITE 400
PORTLAND OR 97204

In re Application of	:	
Birnbaum, et al.	:	DECISION ON PETITION
Application No. 10/489,924	:	
Filed: March 12, 2004	:	
Attorney Docket No. 1941-89	:	

This is a decision on the petition filed May 18, 2009, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Amendment or a Reply Brief in response to the Examiner's Answer, mailed March 4, 2009. The Answer set a non-extendable period for reply of two months. No reply having been received, the application became abandoned on May 5, 2009. The Office mailed a communication on May 12, 2009, indicating that the application was abandoned.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of a Reply Brief.

The matter is being forwarded to Group Art Unit 1791 for consideration of the Reply Brief filed May 18, 2009.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

26 JAN 2005

#11

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Ronald W. Citkowski
Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski, P.C.
280 N. Old Woodward Avenue, Suite 400
Birmingham, MI 48009-5394

In re Application of LARSEN, Rasmus Dines Application No.: 10/489,930 PCT No.: PCT/DK02/00603 Int. Filing Date: 16 September 2002 Priority Date: 16 September 2001 Attorney's Docket No.: HOI-11402/16 For: METHOD AND SYSTEM FOR ... RARE EVENT PARTICLE	DECISION ON PETITION UNDER 37 CFR 1.182

This decision responds to "Statement By Inventor," filed with the United States Patent and Trademark Office on 04 November 2004. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 07-1180, as authorized.

BACKGROUND

On 16 September 2002, applicant filed international application PCT/DK02/00603 claiming a priority date of 16 September 2001. A copy of the international application was transmitted to the Office on 27 March 2003. The deadline for entry into the national stage in the United States was midnight 16 March 2004.

On 16 March 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee and a declaration.

On 05 August 2004, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 04 November 2004, applicant submitted a petition under 37 CFR 1.182 and an executed declaration.

DISCUSSION

The declaration is executed by Rasmus Dines Larsen. The international application listed Larsen Rasmus Dines.

Applicants have supplied a statement signed by Rasmus Dines Larsen stating that Rasmus Dines Larsen is his name and that the international application incorrectly printed his name. This is an adequate explanation.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The application has an international filing date of 16 September 2002 under 35 U.S.C. §363 and a date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) of 04 June 2004. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

24 FEB 2005

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Mr. Joseph S Tripoli
Thomson Licensing Inc.
Patent Department
Po Box 5312
Princeton NJ 08543-5312

In re Application of Marco WINTER Serial No.: 10/489,933 PCT App. No.: PCT/EP02/10363 Int'l Filing Date: 16 September 2002 Priority Date: 18 September 2001 Attorney Docket No.: PD010054 For: METHOD FOR PROCESSING INFORMATION PARTS OF RECORDED DATA	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's petition to revive under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office on 02 February 2005 in the above-captioned application, which is being treated petition under 37 CFR 1.181.

BACKGROUND

On 16 September 2002, applicant filed international application No. PCT/EP02/10363 which claimed priority of an earlier European Patent application filed 18 September 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 March 2004.

On 16 March 2004, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 referencing PCT/EP02/01363, along with the payment of $920 for the basic national fee and a copy of international application PCT/EP02/01363. Applicant also filed a declaration, which was directed to a different international application, PCT/EP02/10383. Applicant also filed a Preliminary Amendment, which states: "This application claims the benefit under 35 U.S.C.§365 of International Application PCT/EP02/10363 filed September 16, 2002, which claims the benefit of European Patent Application No. 01122321.1 filed September 18, 2001."

On 27 July 2004, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned for failure to provide a copy of the international application by thirty months.

On 02 February 2005, applicant filed the instant petition to revive (Form PTO/SB/64) along with a copy of the published international application for PCT/EP02/10363.

DISCUSSION

The Notification of Abandonment, mailed 27 July 2004, indicated that the copy of the international application was not provided. A copy of the wrong international application was filed;

however, the preliminary amendment indicated the correct international application PCT/EP02/10363. The Notification of Abandonment was improperly issued.

On 16 March 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The first page of the transmittal letter incorrectly indicated international application no. PCT/EP02/**01363**; it should have read PCT/EP02/**10363**, as it was listed on the preliminary amendment, which accompanied the filing.

On 02 February 2005, applicant filed the instant petition, which in effect, is an attempt to rectify the incorrect international application no. identifying the correct international application no. as PCT/EP02/**10363**. Applicant has now provided a copy of the international application for PCT/EP02/10363. The petition under 37 CFR 1.181 is GRANTED.

The petition fee for petition under 37 CFR 1.181 is $400, which will be charged to applicant's deposit account per his authorization.

CONCLUSION

For the reasons discussed above, the petition to revive under 37 CFR 1.181 is **GRANTED.**

The application is being forwarded to the US Designated/Elected Office for further processing as the national stage of PCT/**EP02/10363** assigned U.S. serial number 10/489,933.

The US/DO/EO will issue a Notification of Missing Requirements indicating that a new oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the $130 surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

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WILLIAM H. DIPPERT
WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK NY 10177

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OFFICE OF PETITIONS

In re Application of

ROMEM, ILAN
Application No. 10/489,934
Filed: March 16, 2004
Attorney Docket No. 600204585-2UEV

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2005 and resubmitted on June 29, 2005.

The request is **NOT APPROVED**.

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).

No reasons were set forth in the request as required under 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.

There is an outstanding Office action mailed February 22, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Amelia Au at 571-272- 7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: HEWLETT PACKARD COMPANY
P O BOX 272400,
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

14 SEP 2004

#4

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:	
BÖTTCHER, Henning et al.	:	
Application No.: 10/489,960	:	DECISION ON
PCT No.: PCT/EP02/09001	:	
Int. Filing Date: 12 August 2002	:	REQUEST
Priority Date: 19 September 2001	:	
Attorney's Docket No.: MERCK-2843	:	UNDER 37 CFR 1.42
For: NOVEL USE OF SUBSTITUTED	:	
AMINOMETHYL CHROMANS	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the declaration reveals an indication that joint inventor Ralf Devant is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 12 August 2002, applicants filed international application PCT/EP02/09001, which claimed a priority date of 19 September 2001. On 26 March 2003, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 19 March 2004.

On 18 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration.

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 executed by Maria Devant as heir to Ralf Devant. The declaration provided does not state that the heir, Maria Devant is the sole heir of Ralf Devant. If a legal representative has been or is required to be appointed under applicable law, such person must sign the declaration and indicate the relationship, e.g., "legal representative of inventor Ralf Devant." Otherwise, <u>all</u> heirs of Ralf Devant must sign the declaration and indicate the relationship, *e.g.*, "sole heir of Ralf Devant," or "legal representative of Ralf Devant." The indication that Maria Devant is an heir leaves open the possibility that there are other non-signing joint heirs.

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 Ralf Devant, but does not list the information for the legal representative.

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.

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PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
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20 JUN 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:	
BÖTTCHER, Henning et al.	:	
Application No.: 10/489,960	:	DECISION ON
PCT No.: PCT/EP02/09001	:	
Int. Filing Date: 12 August 2002	:	REQUEST
Priority Date: 19 September 2001	:	
Attorney's Docket No.: MERCK-2843	:	UNDER 37 CFR 1.42
For: NOVEL USE OF SUBSTITUTED	:	
AMINOMETHYL CHROMANS	:	

This decision is in response to "Response to Decision On Request Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 14 December 2004.

BACKGROUND

On 12 August 2002, applicants filed international application PCT/EP02/09001, which claimed a priority date of 19 September 2001. On 26 March 2003, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 19 March 2004.

On 18 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration.

On 14 September 2004, the Office mailed Decision On Request, refusing applicants' request under 37 CFR 1.42.

On 14 December 2004, applicants submitted a renewed request under 37 CFR 1.42, accompanied by the fee for a one month extension of time and a new declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

This declaration is executed by Maria Devant as legal representative to Ralf Devant, however, it fails to comply with 37 CFR 1.497(a)-(b).

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 Ralf Devant, but does not list the information for the legal representative.

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.

Erin P. Thomson

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22 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:	
BÖTTCHER, Henning et al.	:	
Application No.: 10/489,960	:	DECISION ON
PCT No.: PCT/EP02/09001	:	
Int. Filing Date: 12 August 2002	:	REQUEST
Priority Date: 19 September 2001	:	
Attorney's Docket No.: MERCK-2843	:	UNDER 37 CFR 1.42
For: NOVEL USE OF SUBSTITUTED	:	
AMINOMETHYL CHROMANS	:	

This decision is in response to "Renewed Submission Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 22 August 2005.

BACKGROUND

On 12 August 2002, applicants filed international application PCT/EP02/09001, which claimed a priority date of 19 September 2001. On 26 March 2003, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 19 March 2004.

On 18 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration.

On 14 September 2004, the Office mailed Decision On Request, refusing applicants' request under 37 CFR 1.42.

On 14 December 2004, applicants submitted a renewed request under 37 CFR 1.42, accompanied by the fee for a one month extension of time and a new declaration of the inventors.

On 20 June 2005, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 22 August 2005, applicants submitted a second renewed request under 37 CFR 1.42.

DISCUSSION

A review of the declaration revealed that it contains alterations that have not been both initialed and dated. The address of Mr. Weber has been altered, but the alteration was not dated. New oaths or declarations executed by the inventors are required. 37 CFR 1.52(c)(1).

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.

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01 MAY 2006

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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01 MAY 2006

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:	
BÖTTCHER, Henning et al.	:	
Application No.: 10/489,960	:	DECISION ON
PCT No.: PCT/EP02/09001	:	
Int. Filing Date: 12 August 2002	:	REQUEST
Priority Date: 19 September 2001	:	
Attorney's Docket No.: MERCK-2843	:	UNDER 37 CFR 1.42
For: NOVEL USE OF SUBSTITUTED	:	
AMINOMETHYL CHROMANS	:	

This decision is in response to "Renewed Submission Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 21 November 2005.

BACKGROUND

On 22 September 2005, the Office mailed Decision on Request Under 37 CFR 1.42, refusing applicants' request for status.

On 21 November 2005, applicants submitted the instant renewed request.

DISCUSSION

The new declaration satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has a date of 21 November 2005 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

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Attorney Advisor
PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COMPUTER PATENT ANNUITIES INC.
901 N. WASHINGTON STREET
SUITE 305
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Henning Böttcher	: DECISION ON REQUEST FOR
Patent Number	: 7618988	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/489,960	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1031** 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.

03 MAR 2005

UNITED STATES PATENT and TRADEMARK OFFICE

#4

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

McGLEW AND TUTTLE, P.C.
1 Scarborough Station Plaza
Scarborough, NY 10510-0827

In re Application of	:	
CORTESE	:	DECISION ON
Application No.: 10/489,981	:	
PCT No.: PCT/IT03/00603	:	
Int. Filing Date: 08 October 2003	:	PETITION UNDER
Priority Date: 14 November 2002	:	
Attorney Docket No.: 71334	:	
For: SUPPORT DEVICE FOR CUTTING	:	37 CFR 1.182
TEMPLATES	:	

This decision is in response to applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE" filed on 02 September 2004 indicating that the executed declaration filed on March 16, 2005 contains the corrected Inventor's name which is Carmelo Angelo Cortese. This is being treated as a petition under 37 CFR 1.182 and $130.00 petition fee has been charged to applicant's Deposit Account No.: 13-0410.

DISCUSSION

On 08 October 2003, applicant filed international application No. PCT/IT03/00603, which claims a priority date of 14 November 2002.

On 17 March 2004, applicant filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee and an executed declaration.

On 30 July 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 current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: Inventor listed as Angelo Carmelo Cortese on International Application and Carmelo Angelo Cortese on Declaration. The notice further indicated that the response 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 02 September 2004, applicant filed the instant communication and an executed declaration. The communication indicated that the correct name of the inventor is Carmelo Angelo Cortese as stated on the Declaration attached and as previously filed with the application on March 16, 2004.

DISCUSSION

It is unclear from the submission whether the corrected name is due to a name change or a typographical error since applicant has provided no explanation. Therefore, the declaration of the inventor is not acceptable at this time, in that the name of the named inventor, Carmelo Angelo CORTESE, does not correspond to that set forth in the international application, Angelo CORTESE CARMELO.

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.

If, however, the name change is due to a typographical error then applicant needs to state and explain it.

For the reasons above, the application may not enter into national stage processing at this time.

CONCLUSION

The petition under 37 CFR 1.182 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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Boris Milef
PCT Legal Examiner
PCT Legal Office

07 JUN 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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McGLEW AND TUTTLE, P.C.
1 Scarborough Station Plaza
Scarborough, NY 10510-0827

In re Application of	:	
CORTESE, Carmelo Angelo	:	DECISION ON
Application No.: 10/489,981	:	
PCT No.: PCT/IT03/00603	:	
Int. Filing Date: 08 October 2003	:	PETITION UNDER
Priority Date: 14 November 2002	:	
Attorney Docket No.: 71334	:	
For: SUPPORT DEVICE FOR CUTTING	:	37 CFR 1.181
TEMPLATES	:	

This decision is in response to applicant's "RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.182" filed originally on 23 March 2005 and 14 April 2005, which is being treated as a petition under 37 CFR 1.181 indicating that the executed declaration filed on 17 March 2004 contains the correct spelling of the inventors' name CORTESE, Carmelo Angelo.

BACKGROUND

In a decision from this Office on 03 March 2003, the decision indicated that the application could not enter into national stage at that time since it was unclear if the current name was a result of a transliteration error because both the given and family name are different from what was published in the PCT application.

On 25 March 2005, applicant filed a petition under 37 CFR 1.182 indicating that the name "CORTESE, Carmelo Angelo" that appeared on the on the PCT Request form PCT/RO/101 and on the declaration submitted on 17 March 2004 is correct and that at some point in the international proceedings a mistake was made since a comma was placed between the two names that form the given name of the inventor.

DISCUSSION

The correct name of the inventor is "CORTESE, Carmelo Angelo" and not "CORTESE CARMELO, Angelo" as published in PCT application WO2004/043660 A1 (PCT/IT2003/000603). The correct name, CORTESES, Carmelo Angelo, as indicated in the declaration and name has been corrected by the International Bureau as evidenced by the form PCT/IB/306 and the correct name will be reflected in the US national stage processing.

Applicant's response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 30 July 2004.

CONCLUSION

The petition under 37 CFR §1.181 is **GRANTED**. The application will be granted a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of **17 March 2004.**

For the reasons above, the application may enter into national stage processing at this time. The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-9227

COPY MAILED

FEB 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Carmelo Angelo Cortese	:	
Application No. 10/489,981	:	DECISION ON PETITION
Filed: March 17, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 71334	:	37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed October 19, 2004, and resubmitted on January 17, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringingdevice or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (c) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center Art Unit 3725 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

20 SEP 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Judith C. Crowley
Daly, Crowley & Moffard, LLP
275 Turnpike Street, Suite 101
Canton, MA 02021-2310

In re Application of	:	
Keegan	:	
Application No. 10/489,986	:	
PCT No.: PCT/GB02/04222	:	
Int. Filing Date: 17 September 2002	:	DECISION
Priority Date: 17 September 2001	:	
Atty. Docket No.: AATH-010PUS	:	
For: Improved Magnetic	:	
Resonance Imaging	:	

This case is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

This international application was filed on 17 September 2002, designated the United States, and claimed an earlier priority date of 17 September 2001. The International Bureau communicated a copy of the published international application to the USPTO on 27 March 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 17 March 2004. On 16 March 2004, applicant filed *inter alia* the basic national fee.

On 26 July 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 05 August 2004, applicant filed a declaration and the surcharge under 37 CFR 1.492(e).

DISCUSSION

Inspection of the declaration filed on 05 August 2004 reveals that it names a joint inventor, David Firmin, whose name does not appear in the published international application. Review of the application file reveals no evidence that Mr. Firmin was added to the international application as an inventor pursuant to PCT Rule 92*bis*. Counsel is required either to furnish appropriate evidence that Mr. Firmin was properly added to the international application as an inventor, or to file a grantable request under 37 CFR 1.497(d) to add him as an inventor in the national stage application.

CONCLUSION

Applicant is required to complete the response within a time limit of **ONE MONTH** from the date of this letter or within the time remaining in the response period of the Notification of Missing Requirements, whichever is longer. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 C.F.R. § 1.136(a) OR (b) BUT THE PERIOD FOR RESPONSE SET IN THE NOTIFICATION OF MISSING REQUIREMENTS MAY BE EXTENDED UP TO A MAXIMUM OF SIX MONTHS.

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
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George M. Dombroske
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after 30 Sep. 2004: (571) 273-0459

1 0 NOV 2004

#6

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Judith C. Crowley
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275 Turnpike Street, Suite 101
Canton, MA 02021-2310

In re Application of	:	
Keegan	:	
Application No. 10/489,986	:	
PCT No.: PCT/GB02/04222	:	
Int. Filing Date: 17 September 2002	:	DECISION
Priority Date: 17 September 2001	:	
Atty. Docket No.: AATH-010PUS	:	
For: Improved Magnetic	:	
Resonance Imaging	:	

This decision is directed to the "Response" filed on 07 October 2004, in which counsel implicitly requests that the declaration of the inventors filed on 05 August 2004 be accepted.

BACKGROUND

On 20 September 2004, a decision was mailed to counsel, indicating that

> Inspection of the declaration filed on 05 August 2004 reveals that it names a joint inventor, David Firmin, whose name does not appear in the published international application. Review of the application file reveals no evidence that Mr. Firmin was added to the international application as an inventor pursuant to PCT Rule 92*bis*. Counsel is required either to furnish appropriate evidence that Mr. Firmin was properly added to the international application as an inventor, or to file a grantable request under 37 CFR 1.497(d) to add him as an inventor in the national stage application.

In response, counsel has provided a copy of a Communication (Form PCT/RO/132) from the British receiving Office (RO/GB) which indicates that the international application was erroneously published "with one of the applicant/inventors missing." The form further states that "I have enclosed a copy of RO/101 corrected ex-officio in order for the application to be republished to include all app/inventors." Inspection of the attached PCT Request (Form PCT/RO/101) reveals that it in fact names David N. Firmin among the applicants/inventors. In view of the totality of the evidence of record, it would be appropriate to conclude that Mr. Firmin is indeed among the inventors named in the international application. As such, it would now be appropriate to accept the declaration of the inventors filed on 05 August 2004.

CONCLUSION

Applicant's request to accept the declaration of the inventors filed on 05 August 2004 is hereby **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **05 August 2004**.

Richard Cole
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PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

1-22-2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,115,174
Ser. No. : 10/489,987
Inventor(s) : Hans-Peter Schmidt
Issued : October 3, 2006

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

Harold Pezzner
Connolly Bove Lode & Hutz LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, Delaware 19899
ej

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

Connolly & Hutz
PO Box 2207
Wilmington DE 19899-2207

In re Patent No. 7,115,174 :
Issue Date: October 3, 2006 :
Application No. 10/489,987 : DECISION ON PETITION
Filed: September 13, 2004 :
Attorney Docket No. MG-2496 :

This is a decision on the Request For Certificate Of Correction To Correct Assignee's Name In Accordance With 37 C.F.R. 3.81(b), filed January 29, 2010, requesting correction on the Title Page of the subject patent to identify the entire correct assignee's name. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the failure to include the entire assignee's name on the previously submitted PTOL 85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that a Certificate of Correction (PTO/SB/44) be issued the correct name of the assignee to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a) was submitted with the Petition. However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor 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. 7,115,174.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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Robert T Tobin
Kenyon & Kenyon
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Hiroshi Ichikawa	: DECISION ON REQUEST FOR
Patent Number	: 7618476	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/489,996	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **83** 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 AUG 2005

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United States Patent and Trademark Office
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Karen E. Flick
Foley & Lardner, LLP
Three Palo Alto Square
3000 El Camino Real
Suite 100
Palo Alto, CA 94306

In re Application of BOLTON, et al. Application No.: 10/489,999 PCT No.: PCT/CA02/01397 Int. Filing Date: 13 September 2002 Priority Date: 18 September 2001 Attorney Docket No.: 559082002500 For: APOPTOSIS-MIMICKING NATURAL VESICLES AND USE THEREOF IN MEDICAL TREATMENT	DECISION ON PETITION

This decision is in response to applicant's "Contingent Petition Revival of Application For Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" identifying serial number 10/489,999 filed in the United States Patent and Trademark Office (USPTO) on 25 July 2005. For the reasons discussed below, the petition is being treated as a petition under 37 CFR 1.182. The $400 petition fee under 37 CFR 1.17 has been charged to Deposit Account no. 50-0872 as authorized.

BACKGROUND

On 13 September 2002, applicant filed international application PCT/CA02/01397 which claimed a priority date of 18 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 March 2003. 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, 18 March 2004.

On 15 March 2004, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; an Information Disclosure Statement; an Application Data Sheet and a preliminary amendment.

On 09 August 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 executed by the inventors and the $65.00 surcharge for filing after the thirty-month period were required. The notification set a TWO MONTH period for response.

On 25 July 2005, applicant filed the present petition which was accompanied by a substitute declaration and a post card receipt dated 12 October 2004 .

DISCUSSION

As noted in applicant's present petition, applicant's response of 12 October 2004 was submitted in application 10/488,214. In addition, payment of the $65.00 surcharge for submitting a declaration later than 30 months was charged to application no. 10/488,214. This fee will be transferred to the present National stage application.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant and title. The receipt itemizes, inter alia: "Fully Executed Declaration and Power-of-Attorney (4 pgs)." The receipt is stamped "DT03 Rec'd PCT/PTO 12 OCT 2004" across its face. Thus, it is clear that applicant filed the executed declaration and power of attorney with the USPTO on 12 October 2004; albeit in the wrong application. Accordingly, the present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicant's 12 OCT 2004 submission to the proper application number, that is, 10/489,999.

A review of the papers filed 12 OCT 2004 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/489,999.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is GRANTED.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 13 September 2002 and a date of 12 October 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing 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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SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

COPY MAILED

MAY 09 2008

OFFICE OF PETITIONS

In re Application of :
Beaton et al. :
Application Number: 10/490011 :
Filing Date: 10/25/2004 :
Attorney Docket Number: PG4653 :
:

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on January 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 7, 2007, for failure to file a timely and proper reply to the non-final Office action mailed on March 6, 2007, which set a three (3) month shortened statutory period for reply. A two (2) month extension of time was filed on August 1, 2007. Notice of Abandonment was mailed on December 26, 2007.

Petitioner requests that the application be revived for copendency with a subsequently filed continuing application. A copy of the continuing application transmittal sheet has been enclosed.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

A review of Office records indicates that the continuing application has been received and has been assigned Application No. 12/015,756.

Since this application is revived for purposes of continuity only with continuing Application No. 12/015,756, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced application.

The application is being referred to Technology Center Art Unit 1648 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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MEADWESTVACO CORPORATION
LAW DEPARTMENT
SUITE D
4850 NORTH CHURCH LANE SE
SMYRNA, GA 30080

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Jean-Michel Garnier :
Application No. 10/490,063 :
Filed: August 16, 2004 :
Attorney Docket No. D-7807 :

DECISION ON PETITION

This is a decision on the petition 37 CFR 1.137(b), filed December 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit drawings on or before September 25, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 23, 2006. The date of abandonment of this application is September 26, 2006. A Notice of Abandonment was mailed on October 31, 2006.

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 $1,400, the publication fee of $300, and drawings, (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notices of June 23, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

20 AUG 2004

#5

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ROCHE MOLECULAR SYSTEMS, INC.
Patent Department
1145 Atlantic Avenue
Alameda, CA 94501

In re Application of: HUBER, Christian, et al.	:	
U.S. Application No.: 10/490,074	:	DECISION ON PETITION
Int'l Filing Date: 12 September 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 14 September 2001	:	
Attorney's Docket No.: 21385-US	:	
For: METHOD FOR SEQUENCING	:	
NUCLEIC ACIDS	:	

The petition to revive under 37 CFR 1.137(b) filed 30 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have previously submitted, on 17 March 2004, 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 United States of America.

The 17 March 2004 submission included an executed declaration in compliance with 37 CFR 1.497 and a translation of the international application into English. Deposit Account No. 50-0812 will be charged the required $130 surcharge for filing the declaration later than thirty months after the international filing date and the $130 processing fee for filing the translation later than thirty months after the priority date.

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 17 March 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

10/490,107

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/07

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction on Patent No.: 7125806

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location 7580, **Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

NA

NADINE NORTON
Nadine Norton
SPE - 1765

1765
Art Unit

10/490,107

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/07

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction on Patent No.: 7125806

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments:

NA

NADINE NORTON
Nadine Norton
SPE - 1765

1765
Art Unit

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Kunio Matsui	: DECISION ON REQUEST FOR
Patent Number	: 7625464	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/490,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **689** 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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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 05/17/2010

Applicant : Kunio Matsui
Patent Number : 7625464
Issue Date : 12/01/2009
Application No : 10/490,120
Filed : 08/30/2004

: 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 **742** 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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Date :02/21/07

Patent No. : 7055850 B2
Ser. No. : 10/490,121
Inventor(s) : FREYSTEDT, BERND
Issued : 06/06/06
Title : **COMPONENT FOR MOTOR VEHICLES WITH AN AIRBAG COVER**
Docket No. : FREYSTEDT

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

HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK NY 10118

LMN

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Date :07/01/08

Patent No. : 7055850 B2
Ser. No. : 10/490,121
Inventor(s) : FREYSTEDT, BERND
Issued : 06/06/06
Title : **COMPONENT FOR MOTOR VEHICLES WITH AN AIRBAG COVER**
Docket No. : FREYSTEDT

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 again.

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
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By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10017

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10017

COPY MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Bernd Freystedt	:	
Application No. 10/490,121	:	
Filing Date: March 19, 2004	:	DECISION ON PETITION
Patent No. 7,055,850	:	PURSUANT TO 37 C.F.R.
Issue Date: June 6, 2006	:	§ 3.81(B)
Attorney Docket Number:	:	
FREYSTEDT	:	
Title: COMPONENT FOR MOTOR	:	
VEHICLES WITH AN AIRBAG COVER	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b),[1] filed July 17, 2008, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b). A duplicate of this submission was received on July 18, 2008.

The petition is **GRANTED**.

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the name of the Assignee should be changed from "Peguform GmbH & Co KG" to "Peguform GmbH," and that the city of the Assignee should be changed from "Botzinger" to "Botzingen."

1 See Official Gazette, June 22, 2004.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records conform that an assignment was received in the Office on March 22, 2005.

Payment of the required $130 processing fee is acknowledged. The required $100 certificate of correction fee will be charged to Petitioner's Deposit Account in due course, as authorized on the second page of this petition.

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.[2] Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

It is noted that the zip code listed on the petition differs from that of the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: URSULA B. DAY
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10118

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/24/07

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/490125 Patent No: 7112662 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Christina Chan — SPE
1644 — Art Unit

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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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JJGJr: 03-06

Paper No: __

SYNGENTA CROP
PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO NC 27409

COPY MAILED

MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Cornes	:	
Application No. 10/490,141	:	DECISION ON PETITION
Filed: 18 March, 2004	:	
Attorney Docket No. 60079	:	

This is a decision on the petition filed on 23 January, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The petition is **GRANTED**.

BACKGROUND

A review of the application file reveals that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 29 March, 2005, with reply due absent an extension of time on 29 June, 2005;
- the application went abandoned after midnight 29 June, 2004;
- the Office mailed a Notice of Abandonment on 12 October, 2005;
- on 23 January, 2006, Petitioner Rebecca A. Gegick (Reg. No. 51,724) filed the instant petition, and averred that the non-final Office action was mailed to an incorrect address–one not associated with Petitioner's Customer No. 26748–as was the Notice of Abandonment–and thus was not and could not have been received;

- while it is worth noting that Petitioner submitted an oath/declaration which contained two customer numbers–the former associated with the names of practitioners authorized to act on behalf of the inventor and the latter associated with an actual correspondence address to which Petitioner directed the mailing of actions by the Office–a review of the documents mail clearly evidence that the Office mailed the 29 March, 2005 non-final Office action and the 12 October, 2005, Notice of Abandonment to an address associated with neither of those numbers.

Thus, Petitioner is not being held to the two- (2-) month period specified in the regulations at 37 C.F.R. §1.181 because Petitioner cannot be said to have been on notice of the abandonment contemporaneously with the mailing.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The courts have outlined the construct for the granting of relief as to the withdrawal of the holding of abandonment. (See: *Delgar v. Schulyer.*[7])

CONCLUSION

Petitioner has satisfied the *Delgar* requirements to support the withdrawal of the holding of abandonment.

Accordingly, the instant petition under 37 C.F.R. §1.181 must be and hereby is **granted**; the petition fee is waived and none was charged.

The instant application is released to Technology Center 1600 in order that the Examiner re-mail the non-final Office action originally transmitted to the incorrect address on 29 March, 2005, in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl.

---

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/490,141	03/18/2004	Derek Comes	60079	1397

28748 7590 03/29/2005

EDWARD M MARX
P O BOX 9843
SAN DIEGO, CA 92169

EXAMINER
CLARDY, S

ART UNIT	PAPER NUMBER
1616	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	10/490,141	CORNES, DEREK
	Examiner	Art Unit
	S. Mark Clardy	1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 03 February 2005.

2a)☐ This action is FINAL. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-4 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-4 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3/18/04.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Claims 1-4 are pending in this application which has been filed under 35 USC 371 as the national stage of international application PCT/EP02/10540, filed September 19, 2002.

Applicant's claims are drawn to a synergistic herbicidal composition and method comprising the combination of metolachlor with at least one compound selected from the group: amicarbazone, foramsulfuron, tritosulfuron, and the compound of formula A (claim 1).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Hudetz et al (US 5,981, 432) and Kremer et al (PCT WO 01/35741).

Hudetz et al teach the combination of metolachlor with secondary herbicides such as sulfonylureas (abstract), for application to maize (column 10).

Kremer et al teach that the sulfonylurea herbicide tritosulfuron could be synergistically combined with any of several herbicides including metolachlor (p. 7) for application to maize (*Zea* species; p. 20, line 1).

One of ordinary skill in the art would be motivated to combine the references because they disclose the utility of combining the same components in order to obtain a synergistic herbicidal combination.

Thus it would have been *prima facie* obvious to the ordinary artisan at the time the invention was made to have combined metolachlor with a sulfonylurea herbicide such as

tritosulfuron because the prior art teach that such a combination would result in a synergistic combination.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Mark Clardy whose telephone number is 571-272-0611. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on 571-272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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).

S. Mark Clardy
Primary Examiner
Art Unit 1616

March 18, 2005

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.
10/490,141	03/18/2004	Derek Cornes	60079	1397

28748 7590 10/12/2005

EDWARD M MARX
P O BOX 9843
SAN DIEGO, CA 92169

EXAMINER
CLARDY, S

ART UNIT	PAPER NUMBER
1617	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment	Application No.	Applicant(s)	
	10/490,141	CORNES, DEREK	
	Examiner	Art Unit	
	S. Mark Clardy	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 March 2005.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

See attached Interview Summary.

S. Mark Clardy
Primary Examiner
Art Unit: 1617

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Interview Summary	Application No.	Applicant(s)	
	10/490,141.	CORNES, DEREK	
	Examiner	Art Unit	
	S. Mark Clardy	1617	

All participants (applicant, applicant's representative, PTO personnel):

(1) S. Mark Clardy. (3)_____.

(2) Jacqueline Haley (for Rose Allen). (4)_____.

Date of Interview: 03 October 2005.

Type: a)☒ Telephonic b)☐ Video Conference
c)☐ Personal [copy given to: 1)☐ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☐ No.
If Yes, brief description: _____.

Claim(s) discussed: none.

Identification of prior art discussed: none.

Agreement with respect to the claims f)☐ was reached. g)☐ was not reached. h)☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant apparently did not receive the office action (mailed on March 29, 2005), and thus did not respond. The six month period for response has ended. It is expected that applicant will want to petition to revive the application upon receipt of this abandonment notice.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

S. Mark Clardy
Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)
In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or 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.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

#7

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11 APR 2007

VENABLE
P.O. Box 34385
Washington, DC 20043-9998

In re Application of ERIKSSON, Peter U.S. Application No.: 10/490,145 PCT No.: PCT/SE02/01674 Int. Filing Date: 16 September 2002 Priority Date: 19 September 2001 Attorney Docket No.: 43315-202210 For: A METHOD FOR AN INDUSTRIAL ROBOT	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

This decision is in response to the "Petition to Withdraw Holding of Abandonment" filed via facsimile on 07 March 2007. No fee is required.

BACKGROUND

On 25 August 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 was required. A two-month time limit in which to respond was set with extensions of time available.

On 25 October 2004, applicant purportedly filed a response which contained, *inter alia*, an executed declaration and a transmittal letter authorizing the surcharge fee to be charged to Deposit Account No. 22-0261.

On 18 November 2005, applicants submitted a Status Inquiry.

On 05 June 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 25 August 2004 within the time period set.

On 07 March 2007, applicants filed the instant petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 25 October 2004 and a stamped postcard receipt for the 25 October 2004 documents.

A review of the subject application shows that the 25 October 2004 response purportedly filed in the above-captioned application was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant has provided a copy of the date-stamped postcard receipt for documents submitted 25 October 2004. The postcard receipt records that among the papers received in the USPTO included an "Inventor Declaration." The postcard receipt is stamped "OIPE JC25 OCT 25 2004" across its face. The U.S. application number, docket number and name of the applicant are all listed on the postcard receipt.

Accordingly, applicant has provided *prima facie* evidence that the declaration was received by the USPTO on 25 October 2004.

DECISION

For the reasons above, applicant's petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 05 June 2006 is hereby **VACATED**.

A review of USPTO financial records show that the surcharge fee was charged to Deposit Account No. 22-0261. 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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JENKINS WILSON TAYLOR & HUNT PA
UNIVERSITY TOWER
3100 TOWER BOULEVARD SUITE 1200
DURHAM NC 27713

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Milligan, et al.	:	
Application No. 10/490,147	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 1392/52	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed May 18, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 19, 2008, which set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on February 5, 2009, made timely with a two month extension of time. However, the Amendment failed to place the application in condition for allowance (an Advisory Action was mailed on March 9, 2009). No further reply having been received, the application became abandoned on February 20, 2009. The Office mailed a Notice of Abandonment on April 21, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The matter is being returned to Group Art Unit 1638 to await for applicant's submission of the appeal brief.

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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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.
10/490,154	03/18/2004	Gaku Yakushiji	Q80488	2924

23373 7590 07/08/2008
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
CHOI, WILLIAM C

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
07/08/2008	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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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of: Yakushiji *et al.* Serial No.: 10/490,154 Filed: March 18, 2004 Attorney Docket No.: **Q80488**	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed June 16, 2008, and supplemented on July 03, 2008. That petition has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application became abandoned at midnight of April 07, 2008, for failure to timely file a response to the Office action mailed on January 07, 2008. No Notice of Abandonment has been mailed yet.

Petitioner asserts that the Office action mailed on January 07, 2008, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was provided to support the petition.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). A further review of the record reveals that the practitioner included a proper response to the Office action with the filing of the petition on May 19, 2004.

The petition and accompanying evidence, as supplemented, provides a sufficient showing that the practitioner did not receive the Office action mailed on January 07, 2008. Accordingly, the petition is granted. The application was not, in fact, abandoned.

A notice is being sent to the Technology Center 2800 support staff for re-mailing the Office action dated January 07, 2008. The shortened statutory period for response set therein will be reset to run three months from the date the Office action is re-mailed.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

for Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

04 AUG 2004

#5

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Matthew M. Jacob
Wenderoth, Lind & Ponack, LLP
2033 K Street, N.W. Suite 800
Washington, D.C. 20006

In re Application of	:	
INUI et al.	:	
Application No.: 10/490,162	:	
PCT No.: PCT/JP02/09453	:	DECISION ON REQUEST
Int. Filing Date: 13 September 2002	:	
Priority Date: 18 September 2001	:	
Atty. Docket No.: 2004_0420A	:	
For: GAS-BARRIER FILM, GAS-BARRIER COATING AGENT AND PRODUCTION PROCESS FOR THE SAME		

This is a decision on the request regarding the correction of an inventor's name filed 21 July 2004 notifying the Office that the correct spelling of the first inventor's name is YOJI Inui as indicated on the Request of international application No. PCT/JP02/09453 rather than Yohji Inui as is indicated on the published international application.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the first inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being forwarded to United States/Elected Office the for further processing with the name of the first named inventor spelled as YOJI Inui and for review of the national stage papers submitted 18 March 2004 and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of **18 March 2004** under 35 U.S.C. 371(c).

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

In re Application of	:	
Hiroshi Kitaura et al	:	
Application No. 10/490,164	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. DK-US045002	:	

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 January 11, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3748 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : April 28, 2006

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OFFICE OF PETITIONS

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hiroshi Kitaura et al
Application No. :10/490,164
Filed :March 18, 2004

The above-identified application has been assigned Patent No. 7,040,881 and an issue date of May 9, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 9, 2006:

"All reference to Patent No. 7,040,881 to Hiroshi Kitaura of Japan for ROTARY COMPRESSOR appearing in the Official Gazette of May 9, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

20 SEP 2004
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Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
Morohoshi et al.	:	
Application No.: 10/490,166	:	
PCT No.: PCT/JP02/09659	:	
Int. Filing Date: 20 September 2002	:	DECISION
Priority Date: 20 September 2001	:	
Attorney Docket No.: 2271/72159	:	
For: Ink Jet Recording Method, Recording Device,	:	
Ink/Recording Medium Set, Recording Matter	:	

This is a decision on applicant's "Communication Requesting Treatment ... Under 35 U.S.C. § 111(a)..." filed on 19 April 2004, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

This international application was filed on 20 September 2002, claimed an earliest priority date of 20 September 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 03 April 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 22 March 2004 (since 20 March 2004 was a Saturday). On 19 March 2004, applicants filed *inter alia* the basic national fee.

On 19 July 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

Counsel requests "that the application filed on March 19, 2004 be treated as a continuing application under 35 U.S.C. §111(a) and under 37 C.F.R. §1.53(b) of International Application No. PCT/JP02/09659." The USPTO has adopted a bright-line test for determining whether application papers will be processed under 35 U.S.C. 371 or alternatively under 35 U.S.C. 111(a). Under this standard, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of

PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

Inspection of this application file reveals that the papers filed on 19 April 2004 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) which indicates that the accompanying papers are to be processed as a national stage application in the United States under 35 U.S.C. 371 of international application number PCT/JP02/09659. Moreover, applicants paid the correct amount of the basic national fee, rather than the filing fee for an application under 35 U.S.C. 111(a). The application file is devoid of any indication that the papers were intended to be treated under 35 U.S.C. 111(a) rather than 35 U.S.C. 371, and so its processing under 35 U.S.C. 371 was proper.

Applicants have not advanced any substantial reason (e.g., loss of rights) to change the status of this application as requested. It appears that maintaining the present status of this application as a national stage application under 35 U.S.C. 371 will not result in any loss of rights to applicants, particularly because applicants retain the right to file a new application under 35 U.S.C. 111(a) as a continuing application of this international application. Moreover, applicants are advised that any change in status of this application to that of an application filed under 35 U.S.C. 111(a) would also necessitate a petition (and $1330.00 petition fee) under 37 CFR 1.78 to claim benefit under 35 U.S.C> 120 and 365(c) to the international application. Insofar as it appears that the application was properly processed under 35 U.S.C. 371 and applicants have not provided an adequate basis to change its status to that of an application under 35 U.S.C. 111(a), it would not be appropriate to grant the requested relief at this time.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

The $130.00 petition fee is being charged to counsel's Deposit Account No. 03-3125, as authorized by the instant petition.

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
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

2 2 JAN 2008

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Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
Morohoshi et al.	:	
Application No.: 10/490,166	:	
PCT No.: PCT/JP02/09659	:	
Int. Filing Date: 20 September 2002	:	DECISION
Priority Date: 20 September 2001	:	
Attorney Docket No.: 2271/72159	:	
For: Ink Jet Recording Method, Recording Device,	:	
Ink/Recording Medium Set, Recording Matter	:	

This is a decision on applicant's correspondence filed on 20 November 2007, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

This international application was filed on 20 September 2002, claimed an earliest priority date of 20 September 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 03 April 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 22 March 2004 (since 20 March 2004 was a Saturday). On 19 March 2004, applicants filed *inter alia* the basic national fee.

On 19 July 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 29 September 2004, a Decision was mailed to applicants, dismissing without prejudice a petition under 37 CFR 1.182 filed on 19 April 2004. The Decision did not set a period for response, and did not require a response.

On 06 November 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to respond to the "petition dated 09/29/2004."

DISCUSSION

Petitioner presents a "Response To Notification Of Missing Requirements Under 35 U.S.C. 371, including Declaration and Power of Attorney, filed on August 25, 2004." Petitioner

also presents a copy of a return postcard receipt itemizing said response, a declaration, a $130.00 check, a certificate of mailing and a claim for priority, and stamped as received by OIPE on "AUG 30 2004." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Following that practice, the copies of the response and the declaration which accompanied the instant petition are being regarded as copies of the respective papers originally filed on 30 August 2004. A review of the electronic records of the USPTO reveals that the $130.00 surcharge was paid on 30 August 2004. However, further review of the copy of the declaration document accompanying the instant petition reveals that the spelling of the first inventor's name differs from that appearing on the published international application, and petitioner appears not to have furnished an explanation of this discrepancy (e.g., whether it represents a mere typographical error or phonetic misspelling of applicant's name). As such, it would not be appropriate to accept the declaration at this time.

The Notification of Abandonment mailed on 06 November 2007 was issued in error, since the Decision mailed on 29 September 2004 did not require a response. Therefore, said Notification of Abandonment is hereby **VACATED**.

DECISION

The petition is **GRANTED** to the extent noted above.

This application is being returned to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b). Applicant is advised that this requirement may also be satisfied by furnishing (if appropriate) an explanation as described herein.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

0 9 JUN 2008

United States Patent and Trademark Office

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Cooper & Dunham
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New York, NY 10036

In re Application of	:	
Morohoshi et al.	:	
Application No.: 10/490,166	:	
PCT No.: PCT/JP02/09659	:	
Int. Filing Date: 20 September 2002	:	DECISION
Priority Date: 20 September 2001	:	
Attorney Docket No.: 2271/72159	:	
For: Ink Jet Recording Method, Recording Device,	:	
Ink/Recording Medium Set, Recording Matter	:	

This is in response to the "Response To Notification Of Defective Response" filed on 26 March 2008.

DISCUSSION

In a Decision mailed on 22 January 2008, applicants were advised that, regarding the declaration filed on 20 November 2007,

> the spelling of the first inventor's name differs from that appearing on the published international application, and petitioner appears not to have furnished an explanation of this discrepancy (e.g., whether it represents a mere typographical error or phonetic misspelling of applicant's name). As such, it would not be appropriate to accept the declaration at this time.

On 27 February 2008, a Notification of Defective Response (Form PCT/DO/EO/916) reflecting said discrepancy deficiency was mailed to applicants.

In response, counsel has provided a "Declaration of Co-Inventor Naoya Morohoshi" which states that "the correct spelling of my name (that is, 'Naoya Morohoshi') is shown on the oath/declaration attached hereto as Exhibit A," and that the published international application "mistakenly indicates my name to be 'MOROHOSI, Naoya'. Such mistake was the result of a typographical error, and was not the result of any intent to deceive." On the basis of the totality of the evidence of record, including this "Declaration...," it would be appropriate to accept the name "Naoya Morohoshi" as it appears on the declaration filed on 20 November 2007.

Further inspection of the declaration reveals that it is a dual-language declaration, not in a form provided by the USPTO. 37 CFR 1.69(b) provides that

> Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT

Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

The instant translation is not accompanied by an appropriate statement that it is accurate. Therefore, it would not be appropriate to accept it at this time.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

A proper response must be filed within **ONE (1) MONTH** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

15 SEP 2008

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1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
Morohoshi et al.	:	
Application No.: 10/490,166	:	
PCT No.: PCT/JP02/09659	:	
Int. Filing Date: 20 September 2002	:	DECISION
Priority Date: 20 September 2001	:	
Attorney Docket No.: 2271/72159	:	
For: Ink Jet Recording Method, Recording Device,	:	
Ink/Recording Medium Set, Recording Matter	:	

This is in response to the "Response To Decision" filed on 03 July 2008.

DISCUSSION

In a Decision mailed on 09 June 2008, applicants were advised that the declaration filed on 20 November 2007 did not comply with 37 CFR 1.69(b) because it was not accompanied by an appropriate statement that the translation was accurate.

In response, counsel has provided a newly executed declaration on Form PTO/SB/106. This declaration is suitable for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The declaration is **ACCEPTED** .

This application is being returned to the Office of Patent Application Processing for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **03 July 2008**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

This application is being forwarded to Technology Center 1700 for examination.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Enc: PCT/DO/EO/903

06 DEC 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Deborah Chess
Honeywell International Inc.
101 Columbia Road
PO Box 2245
Morristown, NJ 07962-2245

In re Application of	:	
RICHARD, Robert, et al.	:	
Application No.: 10/490,167	:	DECISION ON
PCT No.: PCT/US02/30260	:	
Int. Filing Date: 23 September 2002	:	PETITION
Priority Date: 21 September 2001	:	
Attorney Docket No.: H0001482	:	UNDER 37 CFR 1.181
For: FIRE SUPPRESSING AND	:	
EXTINGUISHING COMPOSITIONS	:	

This decision is in response to "Request for Original Filing Date," filed on 09 November 2004. No petition fee is due.

BACKGROUND

On 23 September 2002, applicants filed international application PCT/US02/30260, claiming a priority date of 21 September 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 22 March 2004 (21 March 2004 was a Sunday).

On 19 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 June 2004, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating the application had a 35 USC 371 (c)(1), (c)(2) and (c)(4) date of 19 March 2004.

On 09 November 2004, applicants filed the instant petition accompanied by a copy of the paperwork filed 19 March 2004 and a copy of an Express Mail Label.

DISCUSSION

The 09 November 2004 paperwork is located in the file. As such, the request to accept the copies of the paperwork as having been received on 19 March 2004 is moot.

A copy of the Notification of Acceptance (Form PCT/DO/EO/903) mailed 09 June 2004 is enclosed.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

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LEYDIG, VOIT AND MAYER
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601

Mail Date: 04/21/2010

Applicant	: Walther Glaubitt	: DECISION ON REQUEST FOR
Patent Number	: 7575809	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/490,172	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1303** 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.

12 MAY 2005

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WOODCOCK WASHBURN LLC
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

In re Application of RUSHWORTH, Andrew Broxholme U.S. Application No.: 10/490,185 PCT No.: PCT/NZ02/02089 Int. Filing Date: 20 September 2002 Priority Date: 20 September 2001 Attorney Docket No.: PARK-0003 For: SURVEILLANCE SYSTEM AND METHOD	: : : : : : : : :	**DECISION**

This decision is in response to the documents titled "Request for Corrected Filing Receipt" filed 26 October 2004 and "Petition to Accord Correspondence Filing Date Shown on Express Mail Label "Date-In" (37 CFR § 1.10(c))" filed 07 April 2005. No fee is required.

BACKGROUND

On 19 March 2004, applicant filed papers to enter the national stage for PCT/NZ02/00187 including, *inter alia*, an unexecuted declaration.

On 06 July 2004, applicant submitted an executed declaration and the $65.00 surcharge fee.

On 15 July 2004, DO/EO/US mailed a filing receipt and a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 (Form PCT/DO/EO/903) advising applicant that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements was 19 March 2004 and that the date of completion of all 35 U.S.C. 371 requirements were satisfied on 06 July 2004.

On 26 October 2004, applicant filed a request for a corrected filing receipt.

On 07 April 2005, applicants filed the subject petition.

DISCUSSION

A review of the application indicates that an executed declaration in compliance with 37 CFR 1.497(a) and (b) was filed on 06 July 2004. Moreover, USPTO financial records indicate that the surcharge fee of $65.00 was also paid on 06 July 2004.

However, the Form PCT/DO/EO/903 mailed 15 July 2004 states that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements was 06 July 2004, not 19 March 2004. Further, the filing receipt also indicated that the filing or 371 (c) date was "03/19/2004."

These dates are both incorrect.

35 U.S.C.(c)(4) requirements were completed on 06 July 2004 when the executed declaration was provided.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 15 July 2004 are both inaccurate and hereby **VACATED**.

CONCLUSION

For the reasons listed above, applicants' petition is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 September 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **06 July 2004.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for mailing a new Form PCT/DO/EO/903 and for mailing a corrected filing receipt.

Then, the application will be sent to Tech Center 2100 for further examination.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

12 MAY 2005

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copy

WOODCOCK WASHBURN LLC
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

In re Application of
RUSHWORTH, Andrew Broxholme
U.S. Application No.: 10/490,185
PCT No.: PCT/NZ02/02089
Int. Filing Date: 20 September 2002
Priority Date: 20 September 2001
Attorney Docket No.: PARK-0003
For: SURVEILLANCE SYSTEM AND METHOD

DECISION

This decision is in response to the documents titled "Request for Corrected Filing Receipt" filed 26 October 2004 and "Petition to Accord Correspondence Filing Date Shown on Express Mail Label "Date-In" (37 CFR § 1.10(c))" filed 07 April 2005. No fee is required.

BACKGROUND

On 19 March 2004, applicant filed papers to enter the national stage for PCT/NZ02/00187 including, *inter alia*, an unexecuted declaration.

On 06 July 2004, applicant submitted an executed declaration and the $65.00 surcharge fee.

On 15 July 2004, DO/EO/US mailed a filing receipt and a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 (Form PCT/DO/EO/903) advising applicant that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements was 19 March 2004 and that the date of completion of all 35 U.S.C. 371 requirements were satisfied on 06 July 2004.

On 26 October 2004, applicant filed a request for a corrected filing receipt.

On 07 April 2005, applicants filed the subject petition.

DISCUSSION

A review of the application indicates that an executed declaration in compliance with 37 CFR 1.497(a) and (b) was filed on 06 July 2004. Moreover, USPTO financial records indicate that the surcharge fee of $65.00 was also paid on 06 July 2004.

However, the Form PCT/DO/EO/903 mailed 15 July 2004 states that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements was 06 July 2004, not 19 March 2004. Further, the filing receipt also indicated that the filing or 371 (c) date was "03/19/2004."

These dates are both incorrect.

35 U.S.C.(c)(4) requirements were completed on 06 July 2004 when the executed declaration was provided.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 15 July 2004 are both inaccurate and hereby **VACATED**.

CONCLUSION

For the reasons listed above, applicants' petition is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 September 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **06 July 2004.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for mailing a new Form PCT/DO/EO/903 and for mailing a corrected filing receipt.

Then, the application will be sent to Tech Center 2100 for further examination.

James Thomson

James Thomson
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11 JAN 2005

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OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
TODA Akihito et al	:	
Application No.: 10/490,201	:	DECISION ON
PCT No.: PCT/JP02/09130	:	
Int. Filing Date: 06 September 2002	:	PETITION
Priority Date: 26 September 2001	:	
Attorney's Docket No.: 251169US0PCT	:	UNDER 37 CFR 1.181
For: PROCESSING METHOD	:	

This decision is in response to the "SUBMISSION OF CORRECTED ENGLISH TRANSLATION," filed on 17 September 2004 which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to April 20, 2004.

BACKGROUND

On 26 March 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application, a copy of an executed Declaration and a translation into English of the international application was provided with the transmittal letter. However, the English translation submitted was incorrect.

On 20 April 2004, applicants filed a second transmittal letter, which was accompanied with a corrected English translation of PCT/JP02/09130.

On 30 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 26 March 2004.

On 17 September 2004 submitted the present petition, which is accompanied by copy of the stamped postcard, stating that a proper English translation was submitted on 20 April 2004.

DISCUSSION

A review of the file indicates that a corrected translation of the international application was submitted on 20 April 2004. Thus, the date of receipt of the corrected translation for the above application is 20 April 2004, which is the date that applicants satisfied the requirement

under 35 U.S.C. 371(c)(2). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371 have been satisfied.

DECISION

The petition under 37 CFR 1.181 is **GRANTED.**

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 30 August 2004 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **20 April 2004.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

26 OCT 2005

#4

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David E. Dougherty
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In re Application of ZHOU et al. Application No.: 10/490,202 PCT No.: PCT/CN01/01463 Int. Filing Date: 28 September 2001 Priority Date: None Attorney Docket No.: 3079/220 For: THREAD FASTENING MEANS	: : : : : : :	DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to the declaration filed 07 February 2005 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 September 2001, applicants filed international application PCT/CN01/01463, which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 April 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 28 March 2004.

On 26 March 2004, 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 08 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the number of claims in the International Application and the number of claims in the translation were not the same. Additionally, the notification indicated that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) along with a surcharge for providing the oath or declaration later than 30 months from the international filing date was required. The notification set a two (2) month period for response.

On 07 February 2005, applicants filed a declaration and power of attorney executed by Yao Zhao as inventor and Xiumei Wang on behalf of deceased inventor, Cheng Wang. Additionally, applicants submitted a translation of the international application.

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 07 February 2005 was executed by Xiumei Wang as "legal representative" of the deceased inventor, Cheng Wang. 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 is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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OFFICE OF PETITIONS

In re Application of :
Zhao, et al. :
Application No. 10/490,202 : ON PETITION
Filed: February 7, 2005 :
Attorney Docket No. 3079/220 :
For: FASTENING APPARATUS AND A SPECIAL TOOL THEREOF

This is a decision on the petition, filed January 28, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within one month of the mailing of the January 18, 2007 Notice of Non-Compliant Amendment (Notice). No timely response being received, this application became abandoned on February 19, 2007. A Notice of Abandonment was mailed on January 14, 2008.

Applicants have submitted an amendment in reply to the January 18, 2007 Notice, an acceptable statement of the unintentional nature of the delay in responding to the January 18, 2007 Notice, and the petition fee.

The petition is **GRANTED**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,115.00 extension of time submitted with the petition on January 28, 2008 was paid subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioners' credit card.

After the mailing of this decision the application will be forwarded to Technology Center AU 3634 for consideration of the amendment filed on July 18, 2007.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

17 SEP 2004

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H. Henry Koda
Koda & Androlia
2029 Century Park East, Suite 1430
Los Angeles, CA 90067-3024

In re Application of	:	
Kobayashi et al.	:	
Application No. 10/490,226	:	DECISION ON
PCT No.: PCT/JP02/08060	:	
Int. Filing Date: 07 August 2002	:	PETITION UNDER
Priority Date: 10 August 2001	:	
Atty. Docket No.: 174A 3552 PCT	:	37 CFR 1.137(b)
For: Titanium Oxide Composition Having	:	
High Brilliant Color, Composition	:	
Comprising Coating And Cosmetic...	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 19 March 2004.

BACKGROUND

This international application was filed on 07 August 2002, claimed an earliest priority date of 10 August 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 27 February 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 10 February 2004. This international application became abandoned with respect to the national stage in the U.S. for failure to timely pay the 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 accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes a statement that "The entire delay in filing the required documents for National Stage documents under 35 U.S.C. 371(b) and 37 CFR 1.495(a) 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), it is noted that a terminal disclaimer accompanied the instant petition. However, no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995. Accordingly, the terminal disclaimer will merely be placed in the application file and no further action will be taken on it.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** as to the national stage in the United States.

The $65.00 surcharge under 37 CFR 1.492(e) and the $65.00 processing fee under 37 CFR 1.492(f) are being charged to counsel's Deposit Account No. 11-1445, as authorized by the Transmittal Letter filed 19 March 2004.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **19 March 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
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2 1 DEC 2004

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LIVERMORE, CA 94550

In re Application of ROHM, Peter Application No.: 10/490,230 PCT No.: PCT/DE02/03202 Int. Filing Date: 30 August 2002 Priority Date: 21 September 2001 Attorney's Docket No.: INFJR-0006 For: PROGRAMME-CONTROLLED UNIT	DECISION ON REQUEST UNDER 37 CFR 1.42

This decision is in response to applicant's submission of a declaration under 35 USC 371 filed in the United States Patent and Trademark Office on 18 October 2004. The declaration includes an indication that inventor Peter Rohm is deceased. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 30 August 2002, applicant filed international application PCT/DE02/03202, claiming a priority date of 21 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 April 2003. The deadline for entry into the national stage in the United States was 22 March 2004 (21 March 2004 was a Sunday).

On 19 March 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 August 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 filing of the oath or declaration were required.

On 18 October 2004, applicant submitted an executed declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, the declaration is executed by the legal representative for the deceased inventor. It provides the necessary information for the deceased inventor and the legal representative. The declaration complies with both 37 CFR 1.497(a)-(b) and 37 CFR 1.42

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 30 August 2002 under 35 U.S.C. §363 and a date of 18 October 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 20, 2005

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6,873,922

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.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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:

OK to enter

[signature]

[signature]

[illegible] S. HOFF
SUPE[illegible] PATENT EXAMINER
[illegible] CENTER 2800

SPE

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Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

31 MAY 2005

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MELVIN K. SILVERMAN
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In re Application of	:	DECISION ON
Mike Weber	:	
Application No.: 10/490,272	:	
PCT No.: PCT/EP02/10498	:	
Int. Filing Date: 19 September 2002	:	PETITION UNDER
Priority Date: 21 September 2001	:	
Attorney's Docket No.: 1243.010	:	
For: DEVICE FOR APPLYING AT LEAST ONE	:	
LASER NEEDLE ON A PATIENT'S BODY	:	37 CFR 1.10(c)

This decision is in response to applicant's "submission" faxed on 28 April 2005, which is being treated as a petition under 37 CFR 1.10(c) requesting that the date of receipt of the declaration of March 20, 2004 be changed to September 24, 2004 for the above identified application.

BACKGROUND

This petition is to correct the date of receipt of the executed declaration for the above application that was purported to have been filed on 24 September 2004.

On 28 April 2005, petitioner filed the present petition. The petition includes, *inter alia*, a copy of the customer receipt "Express Mail" Label No.: ER 961746095 US with a "date in" of 24 September 2004.

A review of application 10/490,272 shows an improper Declaration dated March 20, 2004 and a properly executed Declaration dated September 23, 2004.

DISCUSSION

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.

The petition was filed promptly. 37 CFR 1.10(c)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. ER 961746095 US was on applicant's cover letter filed on September 24, 2004. CFR 1.10(c)(2). Finally, the copy of the customer receipt of "Express Mail" Label No. ER 961746095 US filed with the present petition identifies the day of deposit as "24 September 2004" in the "Date In" section. 37 CFR 1.10(c)(3). Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

The date of receipt of the executed declaration for the above application is 24 September 2004, which is the date that applicant satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371 have been satisfied.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 14 September 2004 is **VACATED** with the mailing of this decision.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a new Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **24 September 2004.**

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Trueman H. Denny
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Fort Collins, CO 80527

02 MAR 2007

In re Application of	:	
Milovina-Meyer et al.	:	
Application No.: 10/490,296	:	
PCT No.: PCT/US01/30696	:	
Int. Filing Date: 01 October 2001	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 10012294-2	:	
For: Methods Of Creating Electronic Customs Invoices	:	

This is a decision on applicants' petition to withdraw the holding of abandonment and renewed submission under 37 CFR 1.497(d) filed on 21 December 2006.

BACKGROUND

This international application was filed on 01 October 2001, claimed no earlier priority date, and designated the U.S. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 01 April 2004. On 19 March 2004, applicants filed *inter alia* the basic national fee.

On 24 June 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 30 August 2004, applicants filed a response, including a declaration nominating and signed by Peggy Milovina-Meyer and Susan Huynh.

On 16 September 2004, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating in part that "the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: inventor Susan Huynh not on IA and inventor Edward W Lungren missing from IA."

On 01 November 2004, applicants filed a response which was treated (and not accepted, without prejudice) under 37 CFR 1.497(d) in a decision mailed on 17 December 2004.

On 20 September 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with

respect to the national stage in the U.S. for failure to timely reply to the decision mailed on 17 December 2004.

DISCUSSION

Petition Under 37 CFR 1.181

Petitioner requests withdrawal of the holding of abandonment on the basis that a timely reply allegedly was filed. The petition references a "reply [which] is attached hereto" and is accompanied by a photocopy of a return postcard receipt itemizing a "Transmittal Letter...," an "assent of assignee to a correction of inventorship Decision on applicants 'response' Recordation, fax conf. of recordation cover sheet Recordation form coversheet,assignment, petition to correct inventorship, postcard, transmittal, dupl tran Petition to correct inventorship, Transmittal pkg. Re: notification of defective response," a fee authorization and a certificate of mailing. The postcard is stamped as "Rec'd PCT/PTO 24 JAN 2005." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Following this procedure, the "Assent of Assignee...," fee authorization, recordation sheet and cover sheet, assignment, transmittal letter, and the"Petition Under 37 CFR 1.48(a)..." accompanying the petition are regarded as copies of the respective documents originally filed on 24 January 2005. Therefore, the Form PCT/DO/EO/909 mailed on 20 September 2006 is hereby **VACATED**.

Renewed Submission Under 37 CFR 1.497(d)

In the Decision mailed on 17 December 2004, the declaration was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding requirement (3), the instant request does not include the written consent of any assignee. However, inspection of the application file, including the published international application, reveals evidence tending to suggest that the Hewlett-Packard Company may enjoy an assignment interest in this application. Counsel is required to clarify the assignment status of this application and provide the written consent, in compliance with 37 CFR 3.73(b), of any and all assignee(s). Based on the present record, requirement (3) is not deemed to have been satisfied at this time.

In response, applicants have submitted an "Assent of Assignee to a Correction of Inventorship per 37 C.F.R. §3.73(b)" identifying Hewlett-Packard Development Company, L.P. as "the assignee of the above identified patent application." The "Assent of Assignee..." identifies the reel and frame number where an assignment in favor of assignee has been recorded in the records of the USPTO, and is signed on behalf of Hewlett-Packard by Trueman H. Denny III, who states that he "is authorized to act on behalf of the assignee." However, Mr. Denny does not explicitly state that the assignee consents to the change in inventorship sought under 37 CFR 1.497(d). Therefore, it would not be appropriate to conclude that requirement (3) has been satisfied on the basis of the present record.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED** as discussed above.

The declaration is **NOT ACCEPTED** under 37 CFR 1.497 (d), without prejudice.

Applicant is required to file a response within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this 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.

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24 JUL 2007

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In re Application of	:	
Milovina-Meyer et al.	:	
Application No.: 10/490,296	:	
PCT No.: PCT/US01/30696	:	
Int. Filing Date: 01 October 2001	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 10012294-2	:	
For: Methods Of Creating Electronic Customs Invoices	:	

This is a decision on applicants' renewed submission under 37 CFR 1.497(d) filed on 08 May 2007.

DISCUSSION

In the Decision mailed on 02 March 2007, the declaration was not accepted under 37 CFR 1.497(d), without prejudice, because

> In response, applicants have submitted an "Assent of Assignee to a Correction of Inventorship per 37 C.F.R. §3.73(b)" identifying Hewlett-Packard Development Company, L.P. as "the assignee of the above identified patent application." The "Assent of Assignee..." identifies the reel and frame number where an assignment in favor of assignee has been recorded in the records of the USPTO, and is signed on behalf of Hewlett-Packard by Trueman H. Denny III, who states that he "is authorized to act on behalf of the assignee." However, Mr. Denny does not explicitly state that the assignee consents to the change in inventorship sought under 37 CFR 1.497(d). Therefore, it would not be appropriate to conclude that requirement (3) has been satisfied on the basis of the present record.

Applicants now present a "Statement of Assent of Assignee" in which "Hewlett-Packard Development Company, L.P. hereby explicitly consents to the change in inventorship being sought under 37 CFR 1.497(d)." The document is signed by Augustus W. Winfield, who asserts that he is "authorized to act on behalf of the assignee, Hewlett-Packard Development Company, L.P."

Further review of the record reveals that a one-month extension of time (and fee) under 37 CFR 1.136(a) was required for the correspondence filed on 08 May 2007 to be considered

timely. However, the application file does not include a fee authorization signed by a person having appropriate authority (Atty. Winfield's authority appears to have expired upon his retirement). In a telephone representative on 09 July 2007, counsel was advised of this issue, and on 11 July 2007, the USPTO received a fax from Lloyd Dakin related to the fee. Though this fax (which is a copy of email correspondence) suggests that fee authorization may be forthcoming, no such authorization has explicitly been provided. Therefore, further action on the merits under 37 CFR 1.497(d) is being held in abeyance pending formal payment of the extension of time fee.

CONCLUSION

Applicant is given the longer of (a) the time period to respond to the Decision mailed on 02 March 2007 (as further extended under 37 CFR 1.136(a)) or (b) **ONE (1) MONTH** from the mailing date of this Decision (**NOT** extendable under 37 CFR 1.136(a)) to perfect the extension of time under 37 CFR 1.136(a) discussed above. Failure to timely and fully 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, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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2 8 SEP 2007

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In re Application of	:	
Milovina-Meyer et al.	:	
Application No.: 10/490,296	:	
PCT No.: PCT/US01/30696	:	
Int. Filing Date: 01 October 2001	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 10012294-2	:	
For: Methods Of Creating Electronic Customs Invoices	:	

This is a decision on applicants' response filed on 23 August 2007.

DISCUSSION

In the Decision mailed on 24 July 2007, in response to the renewed submission under 37 CFR 1.497(d) filed on 08 May 2007, the declaration filed on 30 August 2004 was not accepted under 37 CFR 1.497(d), without prejudice, because

> Applicants now present a "Statement of Assent of Assignee" in which "Hewlett-Packard Development Company, L.P. hereby explicitly consents to the change in inventorship being sought under 37 CFR 1.497(d)." The document is signed by Augustus W. Winfield, who asserts that he is "authorized to act on behalf of the assignee, Hewlett-Packard Development Company, L.P."
>
> Further review of the record reveals that a one-month extension of time (and fee) under 37 CFR 1.136(a) was required for the correspondence filed on 08 May 2007 to be considered timely. However, the application file does not include a fee authorization signed by a person having appropriate authority (Atty. Winfield's authority appears to have expired upon his retirement). In a telephone representative on 09 July 2007, counsel was advised of this issue, and on 11 July 2007, the USPTO received a fax from Lloyd Dakin related to the fee. Though this fax (which is a copy of email correspondence) suggests that fee authorization may be forthcoming, no such authorization has explicitly been provided. Therefore, further action on the merits under 37 CFR 1.497(d) is being held in abeyance pending formal payment of the extension of time fee.

In response, counsel has provided a general fee authorization. The petition fee for the required one-month extension of time under 37 CFR 1.136(a) has been charged to counsel's deposit account.

In view of the totality of the circumstances present in this case, and as discussed in the previously mailed decisions, it would now be appropriate to accept the declaration filed on 30 August 2004 under 37 CFR 1.497(d).

CONCLUSION

The declaration filed on 30 August 2004 is **ACCEPTED** under 37 CFR 1.497(d).

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **30 August 2004** (the date the declaration was filed).

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17 DEC 2004

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In re Application of	:	
Milovina-Meyer et al.	:	
Application No.: 10/490,296	:	DECISION
PCT No.: PCT/US01/30696	:	
Int. Filing Date: 01 October 2001	:	UNDER
Earlier Priority Date: None	:	
Attorney Docket No.: 10012294-2	:	37 CFR 1.497(d)
For: Methods Of Creating Electronic Customs Invoices	:	

This is a decision on applicants' "Response..." filed on 01 November 2004, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 01 October 2001, claimed no earlier priority date, and designated the U.S. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 01 April 2004. On 19 March 2004, applicants filed *inter alia* the basic national fee.

On 24 June 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 30 August 2004, applicants filed a response, including a declaration nominating and signed by Peggy Milovina-Meyer and Susan Huynh.

On 16 September 2004, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating in part that "the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: inventor Susan Huynh not on IA and inventor Edward W Lungren missing from IA."

DISCUSSION

Counsel states that "the Applicant has petitioned the PTO to Correct Inventorship by deleting Edward W. Lungren as an inventor and adding Susan Huynh as an inventor to the above captioned patent application with serial number 10/490,296." Though the accompanying petition references 37 CFR 1.48, applicants' request is properly decided under 37 CFR 1.497(d). A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set

forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have provided appropriate statements signed by the inventor (Susan Huynh) sought to be added as an inventor and by the inventor (Edward W. Lungren) sought to be deleted as an inventor, attesting that the error in inventorship occurred without deceptive intent. Thus, requirement (1) has been satisfied.

Regarding requirement (2), the instant submission was accompanied by the required processing fee.

Regarding requirement (3), the instant request does not include the written consent of any assignee. However, inspection of the application file, including the published international application, reveals evidence tending to suggest that the Hewlett-Packard Company may enjoy an assignment interest in this application. Counsel is required to clarify the assignment status of this application and provide the written consent, in compliance with 37 CFR 3.73(b), of any and all assignee(s). Based on the present record, requirement (3) is not deemed to have been satisfied at this time.

CONCLUSION

The declaration filed on 30 August 2004 is **NOT ACCEPTED** under 37 CFR 1.497 (d), without prejudice.

Applicant is required to file a response within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this 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.

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02 MAR 2007

In re Application of	:	
Milovina-Meyer et al.	:	
Application No.: 10/490,296	:	
PCT No.: PCT/US01/30696	:	
Int. Filing Date: 01 October 2001	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 10012294-2	:	
For: Methods Of Creating Electronic Customs Invoices	:	

This is a decision on applicants' petition to withdraw the holding of abandonment and renewed submission under 37 CFR 1.497(d) filed on 21 December 2006.

BACKGROUND

This international application was filed on 01 October 2001, claimed no earlier priority date, and designated the U.S. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 01 April 2004. On 19 March 2004, applicants filed *inter alia* the basic national fee.

On 24 June 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 30 August 2004, applicants filed a response, including a declaration nominating and signed by Peggy Milovina-Meyer and Susan Huynh.

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On 01 November 2004, applicants filed a response which was treated (and not accepted, without prejudice) under 37 CFR 1.497(d) in a decision mailed on 17 December 2004.

On 20 September 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with

respect to the national stage in the U.S. for failure to timely reply to the decision mailed on 17 December 2004.

DISCUSSION

Petition Under 37 CFR 1.181

Petitioner requests withdrawal of the holding of abandonment on the basis that a timely reply allegedly was filed. The petition references a "reply [which] is attached hereto" and is accompanied by a photocopy of a return postcard receipt itemizing a "Transmittal Letter...," an "assent of assignee to a correction of inventorship Decision on applicants 'response' Recordation, fax conf. of recordation cover sheet Recordation form coversheet,assignment, petition to correct inventorship, postcard, transmittal, dupl tran Petition to correct inventorship, Transmittal pkg. Re: notification of defective response," a fee authorization and a certificate of mailing. The postcard is stamped as "Rec'd PCT/PTO 24 JAN 2005." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Following this procedure, the "Assent of Assignee...," fee authorization, recordation sheet and cover sheet, assignment, transmittal letter, and the"Petition Under 37 CFR 1.48(a)..." accompanying the petition are regarded as copies of the respective documents originally filed on 24 January 2005. Therefore, the Form PCT/DO/EO/909 mailed on 20 September 2006 is hereby **VACATED**.

Renewed Submission Under 37 CFR 1.497(d)

In the Decision mailed on 17 December 2004, the declaration was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding requirement (3), the instant request does not include the written consent of any assignee. However, inspection of the application file, including the published international application, reveals evidence tending to suggest that the Hewlett-Packard Company may enjoy an assignment interest in this application. Counsel is required to clarify the assignment status of this application and provide the written consent, in compliance with 37 CFR 3.73(b), of any and all assignee(s). Based on the present record, requirement (3) is not deemed to have been satisfied at this time.

In response, applicants have submitted an "Assent of Assignee to a Correction of Inventorship per 37 C.F.R. §3.73(b)" identifying Hewlett-Packard Development Company, L.P. as "the assignee of the above identified patent application." The "Assent of Assignee..." identifies the reel and frame number where an assignment in favor of assignee has been recorded in the records of the USPTO, and is signed on behalf of Hewlett-Packard by Trueman H. Denny III, who states that he "is authorized to act on behalf of the assignee." However, Mr. Denny does not explicitly state that the assignee consents to the change in inventorship sought under 37 CFR 1.497(d). Therefore, it would not be appropriate to conclude that requirement (3) has been satisfied on the basis of the present record.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED** as discussed above.

The declaration is **NOT ACCEPTED** under 37 CFR 1.497 (d), without prejudice.

Applicant is required to file a response within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this 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.

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0 9 JUL 2007

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In re Application of	:	
Milovina-Meyer et al.	:	
Application No.: 10/490,296	:	
PCT No.: PCT/US01/30696	:	
Int. Filing Date: 01 October 2001	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 10012294-2	:	
For: Methods Of Creating Electronic Customs Invoices	:	

This is a decision on applicants' renewed submission under 37 CFR 1.497(d) filed on 08 May 2007.

DISCUSSION

In the Decision mailed on 02 March 2007, the declaration was not accepted under 37 CFR 1.497(d), without prejudice, because

> In response, applicants have submitted an "Assent of Assignee to a Correction of Inventorship per 37 C.F.R. §3.73(b)" identifying Hewlett-Packard Development Company, L.P. as "the assignee of the above identified patent application." The "Assent of Assignee..." identifies the reel and frame number where an assignment in favor of assignee has been recorded in the records of the USPTO, and is signed on behalf of Hewlett-Packard by Trueman H. Denny III, who states that he "is authorized to act on behalf of the assignee." However, Mr. Denny does not explicitly state that the assignee consents to the change in inventorship sought under 37 CFR 1.497(d). Therefore, it would not be appropriate to conclude that requirement (3) has been satisfied on the basis of the present record.

Applicants now present a "Statement of Assent of Assignee" in which "Hewlett-Packard Development Company, L.P. hereby explicitly consents to the change in inventorship being sought under 37 CFR 1.497(d)." The document is signed by Augustus W. Winfield, who asserts that he is "authorized to act on behalf of the assignee, Hewlett-Packard Development Company, L.P. " In view of this document evidencing the assent of the assignee, it would now be appropriate to accept the declaration under 37 CFR 1.497(d).

CONCLUSION

The declaration is **ACCEPTED** under 37 CFR 1.497 (d).

Counsel's Deposit Account No. 08-2025 is being charged in the amount of $60.00 for a one-month extension of time under 37 CFR 1.136(a), as authorized by the correspondence filed on o8 May 2007.

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 **30 August 2004**.

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#11

24 JUL 2007

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In re Application of	:	
Milovina-Meyer et al.	:	
Application No.: 10/490,296	:	
PCT No.: PCT/US01/30696	:	
Int. Filing Date: 01 October 2001	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 10012294-2	:	
For: Methods Of Creating Electronic Customs Invoices	:	

This is a decision on applicants' renewed submission under 37 CFR 1.497(d) filed on 08 May 2007.

DISCUSSION

In the Decision mailed on 02 March 2007, the declaration was not accepted under 37 CFR 1.497(d), without prejudice, because

> In response, applicants have submitted an "Assent of Assignee to a Correction of Inventorship per 37 C.F.R. §3.73(b)" identifying Hewlett-Packard Development Company, L.P. as "the assignee of the above identified patent application." The "Assent of Assignee..." identifies the reel and frame number where an assignment in favor of assignee has been recorded in the records of the USPTO, and is signed on behalf of Hewlett-Packard by Trueman H. Denny III, who states that he "is authorized to act on behalf of the assignee." However, Mr. Denny does not explicitly state that the assignee consents to the change in inventorship sought under 37 CFR 1.497(d). Therefore, it would not be appropriate to conclude that requirement (3) has been satisfied on the basis of the present record.

Applicants now present a "Statement of Assent of Assignee" in which "Hewlett-Packard Development Company, L.P. hereby explicitly consents to the change in inventorship being sought under 37 CFR 1.497(d)." The document is signed by Augustus W. Winfield, who asserts that he is "authorized to act on behalf of the assignee, Hewlett-Packard Development Company, L.P."

Further review of the record reveals that a one-month extension of time (and fee) under 37 CFR 1.136(a) was required for the correspondence filed on 08 May 2007 to be considered

timely. However, the application file does not include a fee authorization signed by a person having appropriate authority (Atty. Winfield's authority appears to have expired upon his retirement). In a telephone representative on 09 July 2007, counsel was advised of this issue, and on 11 July 2007, the USPTO received a fax from Lloyd Dakin related to the fee. Though this fax (which is a copy of email correspondence) suggests that fee authorization may be forthcoming, no such authorization has explicitly been provided. Therefore, further action on the merits under 37 CFR 1.497(d) is being held in abeyance pending formal payment of the extension of time fee.

CONCLUSION

Applicant is given the longer of (a) the time period to respond to the Decision mailed on 02 March 2007 (as further extended under 37 CFR 1.136(a)) or (b) **ONE (1) MONTH** from the mailing date of this Decision (**NOT** extendable under 37 CFR 1.136(a)) to perfect the extension of time under 37 CFR 1.136(a) discussed above. Failure to timely and fully 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, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of
Ichiro Onishi et al.
Application No. 10/490,301
Filed: March 19, 2004
Attorney Docket Number: MAT-8519US

: DECISION GRANTING PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed April 16, 2007, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to a non-Final Office Action mailed September 8, 2006. Accordingly, a Notice of Abandonment was mailed March 21, 2007.

The file record discloses that the non-Final Office Action was mailed September 8, 2006 to the address of record. However, petitioner argues non-receipt.

Additionally, a review of the USPTO files reveal that the office communication was returned to the USPTO by the United States Postal Service on September 18, 2006 and no apparent reason can be determined since it appears that the address of record was placed on the correspondence. Further, the Notice of Abandonment was mailed to the same address and was received by the petitioner and not returned to the USPTO.

In view of the facts set forth in the petition and the fact that the non-Final Office Action was returned, and since it doesn't appear that any action of the petitioner caused the office action to not be received, the holding of abandonment is withdrawn. As no petition fee is therefore, the fees paid in the amount of $130.00 will be refunded back to petitioner's credit card.

This matter is being referred to Technology Center 3744 for treatment of the response to the non-Final Office Action as appropriate.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APR 5 2007

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

In re Application of	:
Norio Nakasuji et al	:
Serial No.: 10/490,302	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 790086.403USPC	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed February 20, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 05/20/2010

Applicant	: Nicole Deweerd	: DECISION ON REQUEST FOR
Patent Number	: 7666428	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/490,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **740** 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 SEP 2004

#4

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Patent Department
Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of FISCHER, Reiner, et al. Application No.: 10/490,320 PCT No.: PCT/EP02/10158 Int. Filing Date: 11 September 2002 Priority Date: 24 September 2001 Attorney's Docket No.: CS-8133/LeA 35,451 For: SPIROCYCLIC 3-PHENYL-3-SUBSTITUTED 4-KETOLACTAMS AND 4-KETOLACTONES	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Submission of Missing Parts of Application Under 37 CFR 1.53," filed in the United States Patent and Trademark Office on 16 August 2004.

BACKGROUND

On 11 September 2002, applicants filed international application PCT/EP02/10158, claiming a priority date of 24 September 2001. A copy of the international application was transmitted to the Office on 10 April 2003. The deadline for submitting the basic national fee to prevent abandonment of the international application as to the United States expired at midnight of 24 March 2004.

On 19 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 August 2004, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

On 16 August 2004, applicants filed a request under 37 CFR 1.42, accompanied by a declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 C.F.R. 1.42.

Applicants state that the heir that executed the declaration is the sole heir of inventor Christoph Erdelen. A submission of the declaration signed by the heirs is construed as an indication that a legal representative has not been appointed nor is one required to be appointed by applicable law, and thus, the heirs are signing as the legal representative of the estate. See MPEP 409.01(d). If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to the decision. The declaration complies with 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 11 September 2002 under 35 U.S.C. §363 and a date of 16 August 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

E. M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

23 AUG 2004

#5

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Christopher P. HARRIS
TAROLLI, SUNDHEIM, COVELL & TUMMINO
526 Superior Avenue, Suite 1111
Cleveland, OH 44114-1400

In re Application of:	:	
GRUNDL, Andreas, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/490,324	:	REVIVE ABANDONED
PCT No.: PCT/EP02/09908	:	APPLICATION UNDER 37
International Filing Date: 04 September 2002	:	CFR 1.137(b)
Priority Date: 04 September 2001	:	
Attorney's Docket No.: WW-6962	:	
For: TRAVELLING WAVE MACHINE	:	

The petition to revive under 37 CFR 1.137(b) filed 11 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," and the accompanying "Statement Regarding Unintentionally Abandoned Application Under 37 CFR 1.137(b)," satisfy the requirements of 37 CFR 1.137(b)(3).

Applicants have previously submitted, on 19 March 2004, the basic national fee and the requirements of 37 CFR 1.137(b) have now been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that applicants' 19 March 2004 submission included an executed declaration in compliance with 37 CFR 1.497 and a purported translation of the international application into English. However, the translation submitted appears to be a translation of the application as amended during Chapter II of the international phase, rather than the application as filed (the published international application includes 22 claims, while the translation only includes 20 claims). A translation of originally filed claims 21 and 22 is required.

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 translation into English of the complete international application as filed (including missing claims 21 and 22), as well as

the $130 processing fee for filing the translation later than thirty months after the priority date and the $130 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

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-16-09

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10490326 Patent No.: 7326685

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

CERTIFICATE OF CORRECTIONS BRANCH (C of C)
RANDOLPH SQUARE
PALM LOCATION - 7580

Valerie Jackson
Certificates of Correction Branch

703-756-1573

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: _____

Cecilia Tsang
SPE

1654
Art Unit

10 JAN 2005

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Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of BRUECK, et al. Application No.: 10/490,327 Filing Date: 19 March 2004 Attorney Docket No.: SCHO0173 For: METHOD FOR AN AUTOMATIC OPTICAL MEASURING OF AN OPC STRUCTURE	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Petition to Convert" filed on 22 October 2004 in the United States Patent and Trademark Office (USPTO), which requests that the application papers submitted on 19 March 2004 be considered a filing under 35 U.S.C. 111. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 September 2002, applicants filed international application no. PCT/EP02/10545 which claimed a priority date of 20 September 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 March 2004.

On 19 March 2004, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and an executed declaration.

On 22 October 2004, applicants filed "Petition to Convert," requesting that the application papers submitted on 19 March 2004 be considered a filing under 35 U.S.C. 111.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 19 March 2004, applicants submitted a specification which stated "This application is a continuing of co-pending International Application No. PCT/EP02/10545, filed April 25, 2003, which designated the United States and was not published in English." The statement in the specification is inconsistent with an intent to enter the National stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 19 March 2004 should have been treated as a filing under 35 U.S.C. 111(a).

CONCLUSION

The petition to convert the application from a national stage application under 35 U.S.C. 371 to a 35 U.S.C. 111 filing is **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

25 JUN 2004

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#3

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Jean I. Liu
Adam Warwick Bell
Durect Corporation
10240 Bubb Road
Cupertino CA 95014

In re Application of	:	
Edward Gillis et al	:	
Application No.: 10/490331	:	
PCT Application No.: PCT/US02/27856	:	DECISION ON
International Filing Date: 29 August 2002	:	
Priority Date: 17 September 2001	:	PETITION UNDER
Attorney Docket No.: DURE-044	:	
For: Device and Method for Accurate	:	37 CFR 1.137 (b)
Delivery of an Active Agent	:	

This is in response to applicants' petition under 37 CFR 1.137 (b) filed on 19 March 2004, to revive the above identified application.

BACKGROUND

On 29 August 2002, applicant filed international application number PCT/US02/07529, which claims priority to prior United States provisional application 60/275419, filed 17 September 2001. Accordingly, the 30 month period for paying the basic national fee expired at midnight of 17 March 2004.

The above captioned international application became abandoned with respect to the United States for failure to pay national stage filing fee within 30 months from priority date of the international application.

On 19 March 2004, applicants submitted the petition under 1.137 (b) for revival, consider herein.

DISCUSSION

A petition to revive under 37 CRF 1.137 (b) must be accompanied by: (1) a proper response, unless it has been previously submitted; (2) the requisite petition fee as required by 37 CFR 1.17 (m); (3) a statement that the " entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137 (c).

On 19 March 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 $1,330 Petition fee; (2) a Transmittal Letter for entry into the national stage in the United States of America under 35 U.S.C. 371 and the requisite 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 have been found to be in compliance with 37 CFR 1.137 (b).

CONCLUSION

The petition to revive the international application under 37 CFR 1.137 (b) is GRANTED as to the National Stage in the United States of America.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notice of Missing Requirements requiring applicant an oath or declaration of the inventors, in compliance with 37 CFR 1.497 (a) and (b).

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
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DURECT CORPORATION
THOMAS P. MCCRACKEN
2 RESULTS WAY
CUPERTINO, CA 95014

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SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Edward M. Gillis, et al. :
Application No. 10/490,331 : ON PETITION
Filed: November 29, 2004 :
Attorney Docket No. DURE-044 :

This is a decision on the petition, filed June 30, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed December 1, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3763 for consideration of the amendment filed June 30, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

14 SEP 2004

#4

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Bosco B. Kim
REVEO, Inc.
85 Executive Boulevard
Elmsford, New York 10523

In re Application of	:	
TSAI et al.	:	
Application No.: 10/490,332	:	DECISION ON PETITION
PCT No.: PCT/US02/30585	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 26 September 2002	:	
Priority Date: 26 September 2001	:	
Attorney Docket No.: EVIONYX-0063USAAPN00	:	
For: RECHARGEABLE AND REFUELABLE METAL AIR ELECTROCHEMICAL CELL		

The petition to revive under 37 CFR 1.137(b) filed 21 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and a translation of the international application are required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

11 MAR 2005

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DALE A. BJORKMAN
Kagan Binder
Maple Island Building Suite 200
221 Main Street North
Stillwater MN 55082

In re Application of	:	DECISION ON
LAWSON	:	
Serial No.: 10/490,333	:	
PCT No.: PCT/EP02/10946	:	PETITION UNDER
Int. Filing Date: 30 September 2002	:	
Priority Date: 28 September 2001	:	
Attorney's Docket No.: VOS0018/US	:	37 CFR 1.10(c)
For: SOLVENT EXTRACTION PROCESS	:	

This decision is in response to applicant's "PETITION TO THE DIRECTOR UNDER 37 CFR 1.10(c)", filed 14 February 2005, to accord a filing date of 18 March 2004 to the above-identified application papers. No petition fee is required.

BACKGROUND

On 30 September 2002, applicant filed international application No. PCT/EP02/10946, which claimed a priority date of 28 September 2001 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 April 2003.

The deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 28 March 2004.

On 18 March 2004, applicant filed, via Express Mail, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The United States Designated/Elected Office (DO/EO/US) accorded a filing date of 22 March 2004 to the transmittal letter.

On 30 July 2004, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (FORM PCT/DO/EO/903) which indicated a 35 U.S.C. 371 date of 22 March 2004.

On 14 February 2005, applicant filed the present petition, which included a copy of the Customer Receipt of the "Express Mail" mailing label #EV331042423US .

DISCUSSION

The Express Mail label #EV331042423US was addressed to the "Mail Stop Patent Apps (DO/EO/US), Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450". The label bears a USPS barrel date stamp of "Mar 18 2004". The entry in the "Date In" box on the Express Mail Customer Copy indicates "3/18/04".

This is sufficient evidence to establish with reasonable certainty that the national stage papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 18 March 2004. Specifically, the "Express Mail" label number ("# EV331042423US") is the same number that appears on the Transmittal Letter, which is found in the application file. Additionally, the attorney docket number associated with this application (VOS0018/US) appears on the "Express Mail" label which is the same the attorney docket number appearing on the Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the national stage papers were deposited on 18 March 2004.

CONCLUSION

Applicant's petition requesting that the national stage papers be accorded a receipt date of 18 March 2004 is **GRANTED**.

The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 30 July 2004 and the filing receipt issued in this case are **VACATED**.

The application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for according the national stage papers a receipt date of **18 March 2004** and issuance of a new Notification of Acceptance (FORM PCT/DO/EO/903) indicating a 35 U.S.C. 371 date of **18 March 2004** and for a corrected filing receipt indicating a "Filing Date" of 18 March 2004.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286

Enclosure: Notification of Acceptance (FORM PCT/DO/EO/903) and Corrected Filing Receipt

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NJ 11576

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Peter-Joachim Neymann :
Application No. 10/490,354 : ON PETITION
Filed: September 3, 2004 :
Attorney Docket No. NEYMANN-1 (PCT) :

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 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 March 22, 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 June 23, 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 2876 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JAN 08 2010

In re Application of	:	
Peter-Joachim Neymann	:	
Application No. 10/490,354	:	ON PETITION
Filed: September 3, 2004	:	
Attorney Docket No. NEYMANN-(PCT)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three month extension of time was obtained. Accordingly, the date of abandonment of this application is October 31, 2008. A reply was received on October 28, 2008, but was not proper. A Notice of Abandonment was mailed on February 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2887 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

01 JUN 2004

#3

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Paul L. Sharer
PILLSBURY WINTHROP LLP
P.O. Box 10500
McLean, VA 22102

In re Application of FAROOQ *et al*, U.S. Application No.: 10/490,355 PCT No.: PCT/US99/25133 Int. Filing Date: 25 October 1999 Priority Date: 26 October 1998 Attorney Docket No.: 081904-0308959 For: ACRYLIC COMPOSITIONS	: : : : : : : :	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' "Petition Under Rule 137(b) to Revive Unintentionally Abandoned Application" filed with the national stage papers on 22 March 2004 has been treated as a petition under 37 CFR 1.137(b) and is hereby **DISMISSED** without prejudice.

The appropriate basic national fee and petition fee have been paid. paid. A terminal disclaimer is not required. Thus, items (1), (2) and (4) of 37 CFR 1.137(b) are satisfied.

But applicants' statement that the "entire delay in filing this application from its April 26, 2001 due date, the resulting abandonment, and the delay in prosecution until the filing of a grantable petition was unintentional" is not sufficient to meet the requirements of 37 CFR 1.137(b)(3). Due to the extended period of time that the above-captioned application has been abandoned, the Office requires that unintentional delay statement must track the language in 37 CFR 1.137(b)(3).

The above-captioned 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. A proper response must include the required statement. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

1 0 NOV 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Customer No. 43569
Intellectual Property Group
MAYER BROWN ROWE & MAW LLP
1909 K Street, N.W.
Washington, DC 20006-1101

In re Application of	:	
FAROOQ *et al*,	:	
U.S. Application No.: 10/490,355	:	
PCT No.: PCT/US99/25133	:	**DECISION ON**
Int. Filing Date: 25 October 1999	:	**PETITION FOR REVIVAL**
Priority Date: 26 October 1998	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 081904-0308959	:	
For: ACRYLIC COMPOSITIONS	:	

Applicants' "Response to the Decision on Petition for Revival . . . " filed on 06 August 2004 with a one-month extension and fee is **GRANTED**.

In the initial petition filed 22 March 2004, applicants failed to provide a statement meeting the requirements of 37 CFR 1.137(b)(3) The Office required that the language track the language in the rule due to the extended period of time that the above-captioned application had been abandoned.

In the instant response, applicants provided a supplement to the initial petition to revive and 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 pursuant to 37 CFR §1.137(b) was unintentional." This statement satisfies 37 CFR 1.137(b)(3). All other requirements have previously been completed.

A signed oath or declaration was not included with any of the papers submitted. This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee pursuant to 37 CFR 1.492(e) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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23 AUG 2006

Ross J. Christie
Bachman & LaPointe, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510-2802

In re Application of	:	
TEMSAMANI, et al.	:	
Application No.: 10/490,357	:	
PCT No.: PCT/FR02/03290	:	DECISION ON PETITION
Int. Filing Date: 26 September 2002	:	
Priority Date: 27 September 2001	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 04-212	:	
For: TRANSPORTING OF TAXOID DERIVATIVES	:	
THROUGH THE BLOOD BRAIN BARRIER	:	

The petition to revive under 37 CFR 1.137(b) filed 17 January 2006 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 a diskette containing a computer readable form of the Sequence Listing free of any defects. 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 previously satisfied.

The application has an international filing date of 26 September 2002 under 35 U.S.C. 363 and will be given a date of **20 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET, SUITE 1201
NEW HAVEN, CT 06510

COPY MAILED

OCT 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Jamal TEMSAMANI, et al	:	
Application No. 10/490,357	:	DECISION ON PETITION
Filed: August 20, 2004	:	TO WITHDRAW
Attorney Docket No. 04-212	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 17, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to BACHMAN & LAPOINTE, PC, has been revoked by the assignee of the patent application on February 8, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communication from the Office will be directed to the address indicated below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: OBLON, SPIVAK, MCCELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

14 MAR 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Philips Electronics North America Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S41-SJ
San Jose, California 95131

In re Application of	:	
DEVRIES et al.	:	
Application No.: 10/490,362	:	DECISION ON REQUEST
PCT No.: PCT/IB02/03905	:	
Int. Filing Date: 19 September 2002	:	
Priority Date: 20 September 2001	:	
Attorney Docket No.: NL01 0662 US	:	
For: OPTICAL SCANNING DEVICE		

This decision is in response to applicants' request regarding the correction of the first inventor's name filed 14 February 2005 notifying the Office that the correct spelling of the first inventor's name is Jorrit Devries as indicated on the declaration rather than Joost Devries as indicated on the published international application. This request will be treated as a response to the Notification of Missing Requirements mailed 12 August 2004. (A five-month extension of time fee will be charged to Deposit Account no. 14-1270.)

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48 is not required. Accordingly, applicant's explanation of the difference in the spelling of the first inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing and for review of the national stage papers submitted 22 March 2004.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of
Jorrit Ernst De Vries et al.
Application No. 10/490,362
Filed: March 22, 2004
Attorney Docket No.: NL01 0662 US

ON PETITION

This is a decision on the petition filed November 30, 2007 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 19, 2007 for failure to timely pay the issue fee on or before July 18, 2007. Accordingly, a Notice of Abandonment was mailed August 14, 2007.

The issue fee in the amount of $1540, the publication fee in the amount of $300 and the petition fee in the amount of $1440 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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13 FEB 2007

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of:	:	
DE COER, Dirk, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/490,364	:	(37 CFR 1.181)
PCT No.: PCT/EP03/50086	:	
International Filing Date: 02 April 2003	:	
Priority Date: 04 April 2002	:	
Atty Docket No.: 01975.0053	:	
For: DIAZABICYCLO ALKANE	:	
DERIVATIVES WITH NK1	:	
ANTAGONISTIC ACTIVITY	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" and the "Request For Corrected Notice Of Acceptance" filed by applicants on 04 March 2005, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 02 April 2003, applicants filed international application PCT/EP03/50086. The international application claimed a priority date of 04 April 2002, and it designated the United States. On 16 October 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 04 October 2004

In March 2004, 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 an executed declaration.

On 11 February 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) identifying 22 March 2004 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements. On the same date, a filing receipt was issued identifying 22 March 2004 as the 35 U.S.C. 371(c) date.

On 04 March 2005, applicants filed the petition materials considered herein. The petitions request that the Notification Of Acceptance and the filing receipt be corrected to identify 23 March 2004 as the date under 35 U.S.C. 371(c). The submission includes a copy of a return postcard that itemizes the materials filed to initiate this national stage application and bears a USPTO receipt stamp dated 23 March 2004.

DISCUSSION

Based on the statements in the present submission, a review of USPTO records (which confirms 23 March 2004 as the filing date for the fees included with the national stage filing), and the stamped return postcard included with the present petition, it is concluded that the materials filed to initiate this national stage application, including the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), were filed herein on 23 March 2004.

The Notification Of Acceptance mailed 11 February 2005, which incorrectly identified 22 March 2004 as the receipt date for the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), is therefore appropriately vacated. Similarly, the filing receipt mailed 11 February 2005, which incorrectly identified the 35 U.S.C. 371(c) date as 22 March 2004, is also appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 11 February 2005 are hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the International Division for issuance of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying **23 March 2004** as the receipt date of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements, and a corrected filing receipt which identifies **23 March 2004** as the 35 U.S.C. 371(c) date.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of	:
De Boer, et al.	: LETTER REGARDING PATENT
Application No. 10/490,364	: TERM ADJUSTMENT
Filed: March 23, 2004	:
Atty. Dkt. No: 01975.0053	:

This is a decision on the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed December 12, 2006. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed September 19, 2006, indicated that the PTA to date is 299 days. Applicants suggest the correct adjustment is 298 days, the USPTO having relied upon an incorrect filing date of March 22, 2004 in the calculation of adjustment.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 298 days, as indicated by applicants.

Applicants are correct in that the adjustment under 37 CFR 1.702(a)(1) was calculated based on an incorrect filing date. The filing date having been corrected to reflect a filing date of March 23, 2004, the application is entitled to an adjustment of 298 days under 37 CFR 1.702(a)(1). The adjustment began May 24, 2005, the day after the date that is 14 months from the date that the application fulfilled the requirements of 35 U.S.C. 371, and ended March 17, 2006, the date the restriction requirement was mailed. *See*, 37 CFR 1.703(a)(1).

Accordingly, at the time of allowance, the application is entitled to an adjustment of 298 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).

The application is being forwarded to Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC: ADJUSTED PA.R CALCULATION

Day : Monday
Date: 2/26/2007

PALM INTRANET

Time: 15:22:04

PTA Calculations for Application: 10/490364

Application Filing Date:	03/22/2004	PTO Delay (PTO):	299
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	298
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41	02/26/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
32	09/19/2006	MAIL NOTICE OF ALLOWANCE			
31	09/15/2006	ISSUE REVISION COMPLETED			
30	09/15/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
29	09/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	09/15/2006	WORKFLOW - SIGNATORY REVIEW - BEGIN			
27	09/15/2006	NOTICE OF ALLOWABILITY			
26	09/09/2006	DATE FORWARDED TO EXAMINER			
25	08/23/2006	RESPONSE AFTER NON-FINAL ACTION			
24	05/24/2006	MAIL NON-FINAL REJECTION			
23	05/22/2006	NON-FINAL REJECTION			
22	04/20/2006	DATE FORWARDED TO EXAMINER			
21	04/12/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
20	03/17/2006	MAIL RESTRICTION REQUIREMENT	299		-1
19	03/15/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
18	03/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
15	03/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	03/22/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	03/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/01/2005	CASE DOCKETED TO EXAMINER IN GAU			

11	02/28/2005	CLEARED BY OIPE CSR			
10	02/23/2005	CLEARED BY OIPE CSR			
9	02/22/2005	CLEARED BY OIPE CSR			
8	10/04/2004	371 COMPLETION DATE			
7	02/11/2005	APPLICATION RETURN FROM OIPE			
6	02/11/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	02/11/2005	APPLICATION RETURN TO OIPE			
3	02/11/2005	APPLICATION DISPATCHED FROM OIPE			
2	02/11/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	03/22/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/09/06

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 7057558

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Shih-Hao Chen
SHIH-CHAO CHEN
PRIMARY EXAMINER

SPE

2821
Art Unit

PTO/SB/44 (04-05))
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 7,057,558

APPLICATION NO.: 10/490,373

DATED: JUNE 6, 2006

INVENTOR(S): SUSUMU FUKUSHIMA, ET AL.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover Page
At (56) References Cited, U.S. PATENT DOCUMENTS, enter
-- 4,538,153.....8/1985.....Taga --.

At (56) References Cited, FOREIGN PATENT DOCUMENTS, enter
-- JP 10-247818.....9/1998 --.

Column 14
Line 8, between "1" and ", wherein", insert -- or claim 7 --.
Line 19, between "1" and ", wherein", insert -- or claim 7 --.
Line 60, "around" should read -- ground --.

Column 16
Line 53, between "first" and "feeding", delete the comma ",".

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

This collection of information is required by 37 CFR 1.322, 1.323 and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance completing the form, call 1-800-PTO-9199 and select option 2.

OCT 2 0 2006

MAT-8515US

PATENT

OIPE IAP86 OCT 16 2006 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 7,057,558
Issued: June 6, 2006
Name of Patentee: Susumu Fukushima, et al.
Title of Invention: ANTENNA DEVICE

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 C.F.R. § 1.322(a))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Certificate of Correction Branch

1. Attached in duplicate is Form PTO-1050 with at least one copy being suitable for printing.

2. Correction of the Official Letters Patent is respectfully requested in view of the following text which appears correctly in the application file:

On the cover page at (56) References Cited, U.S. PATENT DOCUMENTS, enter -- 4,538,153 8/1985 Taga --, as indicated in the PTO-1449 filed on March 23, 2004.

On the cover page at (56) References Cited, FOREIGN PATENT DOCUMENTS, enter -- JP 10-247818 9/1998 --, as indicated in the PTO-1449 filed on March 23, 2004.

At Column 14, line 8, between "1" and ", wherein", insert -- or claim 7 --, as indicated in claim 13, lines 1 and 2, of the Amendment filed January 5, 2006.

At Column 14, line 19, between "1" and ", wherein", insert -- or claim 7 --, as indicated in claim 15, lines 1 and 2, of the Amendment filed January 5, 2006.

At Column 14, line 60, "around" should read -- ground --, as indicated in claim 7, line 11 of the Amendment filed January 5, 2006.

At Column 16, line 53, between "first" and "feeding", delete the comma "," as indicated in claim 25, line 12, of the Amendment filed January 5, 2006.

OCT 20 2006

3. Please send the Certificate to:

Name: Lawrence E. Ashery
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

Name of Assignee: Matsushita Electric Industrial Co., Ltd.

Assignment Recorded on: March 23, 2004

Reel: 015656

Frame: 0358

Respectfully submitted,

Lawrence E. Ashery, Reg. No. 34,515
Attorney for Applicants

LEA/dmw

Enclosures:
PTO-1050 (in duplicate)

Dated: October 10, 2006

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 Attn: Certificate of Correction Branch on October 10, 2006.

Donna M. Wellings

55493

OCT. 2 0 2006

PTO/SB/44 (04-05))
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 7,057,558

APPLICATION NO.: 10/490,373

DATED: JUNE 6, 2006

INVENTOR(S): SUSUMU FUKUSHIMA, ET AL.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover Page
At (56) References Cited, U.S. PATENT DOCUMENTS, enter
-- 4,538,153.....8/1985.....Taga --.

At (56) References Cited, FOREIGN PATENT DOCUMENTS, enter
-- JP 10-247818.....9/1998 --.

Column 14
Line 8, between "1" and ", wherein", insert -- or claim 7 --.
Line 19, between "1" and ", wherein", insert -- or claim 7 --.
Line 60, "around" should read -- ground --.

Column 16
Line 53, between "first" and "feeding", delete the comma ",".

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

This collection of information is required by 37 CFR 1.322, 1.323 and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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wherein a line segment passing through a center point of the radiator and the first feeding point and a line segment passing through the center point of the radiator and the second feeding point intersect at substantially right angles, and

wherein a third feeding port is coupled to a center point of the radiator to isolate the third feeding port from the first and second feeding ports.

5. (Original) An antenna device according to claim 4,

wherein frequencies of respective high-frequency signals fed from the first, the second, and the third feeding ports are substantially the same.

6. (Currently Amended) An antenna device according to ~~claim 1~~claim 4,

wherein the first and second feeding points are disposed on an outer periphery of the radiator.

7. (Currently Amended) An antenna device ~~according to claim 1, wherein~~for high frequency comprising:

a radiator made of a planar conductor having one of shapes of:

(i) a substantial circle whose diameter is a substantially half wavelength;

(ii) a substantially regular polygon where a length of a diagonal line passing through a center point of the regular polygon is a substantially half wavelength; and

(iii) a substantial quadrangle whose edge length is a substantially half wavelength;

a ground plate separated from the radiator by a predetermined distance and disposed in parallel with the radiator;

a first feeding port coupled to a first feeding point on the radiator; and

a second feeding port coupled to a second feeding point on the radiator,

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one of a diameter, a diagonal length, and an edge length of a top surface of the crest part is a substantially quarter wavelength.

13. (Currently Amended) An antenna device according to ~~claim 1~~claim 4 or claim 7, wherein

an electromagnetic medium made of one of a dielectric material, a magnetic material, and a mixture of the dielectric material and the magnetic material is disposed between the radiator and the ground plate.

14. (Original) An antenna device according to claim 13, wherein

the electromagnetic medium has a multilayered structure, and

an impedance-matching circuit is disposed in at least one layer of the multilayered structure, and connected to at least one of the first and the second feeding ports.

15. (Currently Amended) An antenna device according to ~~claim 1~~ claim 4 or claim 7, wherein

on the radiator, conductive elements, each having an opened end, are mounted to positions symmetric to the first and the second feeding points with respect to the center point of the radiator.

16. (Original) An antenna device according to claim 15, wherein

the opened end of each of the conductive elements are cut to change electrical lengths of the conductive elements, so as to adjust a degree of isolation between the first and the second feeding ports.

17. (Original) An antenna device according to claim 15, wherein

the conductive elements have a meander shape.

18. (Original) An antenna device according to claim 15, wherein

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a reactance element is disposed between the each opened end and the ground plate.

19. (Currently Amended) An antenna device according to ~~claim 1~~claim 4, wherein

respective meander-shaped conductive elements are disposed between the first feeding point and the first feeding port and between the second feeding point and the second feeding port.

20. (Original) An antenna device according to claim 16, wherein

all conductive elements have the same shape.

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21. (Original) An antenna device according to claim 18, wherein

all reactance values of the reactance elements are set substantially the same.

22.-24. (Cancelled).

25. (Currently Amended) An antenna device ~~according to claim 24,~~for high frequency comprising:

a radiator made of a planar conductor having one of shapes of:

(i) a substantial circle whose diameter is a substantially half wavelength;

(ii) a substantially regular polygon where a length of a diagonal line passing through a center point is a substantially half wavelength; and

(iii) a substantial quadrangle of whose edge length is a substantially half wavelength;

a ground plate which is separated from the radiator by a predetermined distance and is disposed in parallel with the radiator;

a first feeding port coupled to a first feeding point on the radiator; and

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(AW 08/03)

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Substitute for Form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

SHEET 1 of 2

Complete if Known	
Application Number	To Be Assigned
Filing Date	Herewith
First Named Inventor	S. Fukushima et al.
Art Unit	
Examiner Name	
Attorney Docket No.	MAT-8515US

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number: Number - Kind Code[2] (if known)	Publication Date (MM-DD-YYYY)	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-6,295,030	9/25/2001	Kozakai et al.	Col. 9, lines 26 to 53; Fig. 15
		US-4,827,266	5/2/1989	Sato et al.	Full text; Figs. 3 to 7
		US-2002/0000938	1/3/2002	Hoashi et al.	Par. Nos. [0011] to [0015], [0091] to [0122]; Figs. 11 to 14
		US-4,538,153	8/27/1985	Taga	Full text; Figs. 3A, 3B

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document: Country Code[3] - Number[4] - Kind Code[5] (if known)	Publication Date (MM-DD-YYYY)	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
		JP 2001-94338 (w/English abstract)	4/6/2001	NEC Corp	Par. No. [0022]; Fig. 1	☐
		JP 2001-332920 (w/English abstract)	11/30/2001	Matsushita Electric Industrial Co. Ltd.	Par. No. [0004]; Fig. 9	☐
		JP 56-141604 (w/English abstract)	11/5/1981	Nippon Telegraph and Telephone Corp	Pg. 1, left col., line 15 to right col., line 15; Fig. 1	☐
		JP 10-247818 (w/English abstract)	9/14/1998	Nippon Dengiyou Kosaku KK	Par. Nos. [0002] to [0012]; Fig. 14	☐
		JP 2-246502 (w/English abstract)	10/2/1990	Du Pont Japan Ltd.	Pg. 8, upper left col., line 18 to lower left col., line 4; Figs. 12, 13	☐
		JP 62-39317 (w/English abstract)	3/9/1987	Mitsubishi Electric Corp	Full text; Figs. 1 to 3	☐
		JP 9-121114 (w/English abstract)	5/6/1997	Murata Mfg. Co Ltd.	Par. No. [0012]; Fig. 1	☐
		JP 9-284039 (w/English abstract)	10/31/1997	Ube Industries Ltd	Par. No. [0003]; Fig. 4	☐
		JP 8-195619 (w/English abstract)	7/30/1996	Soshin Denki Kabushiki Kaisha	Par. No. [0024]; Fig. 1	☐
		JP 9-238020 (w/English abstract)	9/9/1997	Matsushita Electric Works, Ltd.	Par No. [0010]; Fig. 1	☐
		JP 61-7706 (w/English abstract)	1/14/1986	Japan Radio Co Ltd.	Full text; Fig. 1	☐

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

[1]Applicant's unique citation designation number (optional).
[2]See Kind Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04.
[3]Enter Office that issued the document, by the two-letter code (WIPO Standard St.3).
[4]For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.
[5]Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible.
[6]Applicant is to place a check mark here if English language translation is attached.

The collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

SHEET 2 of 2

Complete if Known	
Application Number	To Be Assigned
Filing Date	Herewith
First Named Inventor	S. Fukushima et al.
Art Unit	
Examiner Name	
Attorney Docket No.	MAT-8515US

NON-PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T[2]
		International Search Report corresponding to application no. PCT/JP03/08089 dated September 2, 2003.	☒
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Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

[1]Applicant's unique citation designation number (optional).

[2]Applicant is to place a check mark here if English language translation is attached.

The collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 120 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.**

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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
TAKEDA, et al. :
Application No. 10/490,378 : DECISION GRANTING PETITION
Filed: November 9, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **251474USOPCT** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 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 June 24, 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]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of MS. Marina I. Miller appearing on the petition 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 in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Monica A. Graves
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

12 MAR 2007

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ALEXANDRIA VA 22314

In re Application of BERND KASTNER Application No.: 10/490,383 PCT No.: PCT/EP02/10784 Int. Filing Date: 26 September 2002 Priority Date: 04 October 2001 Attorney's Docket No.: KAST3001/FJD For: THREE COMPONENTS LINKED TO EACH OTHER BY MEANS OF A WELDED CONNECTION	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on Applicant's "Petition under 37 CFR 1.47(b)", filed 12 February 2007 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Bernd Kastner. Applicant requests a five month extension of time, which is granted.

BACKGROUND

On 26 September 2002, applicant filed international application No. PCT/EP02/10784 which claimed a priority date of 04 October 2001, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 17 April 2003.

On 02 April 2004, prior to the expiration of the 30 month period from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 12 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 12 February 2007, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was not accompanied by a Statement of Facts under 37 CFR 1.47, based upon first hand knowledge, regarding inventor Kastner's unavailability or refusal to sign the application

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after

diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied Item (1) with payment of the petition fee of $200 charged to his deposit account per his authorization.

With the submission, Petitioner satisfied Item (6) above with the statement showing such action is necessary to preserve the rights of the parties and to prevent irreparable damage.

With respect to Item (2), Petitioner merely states that "Mr. Kastner has left the employ of E + H and could not be located." Petitioner does not provide any further details or evidence sufficient to conclude that Mr. Kastner is unavailable or refuses to sign the application. Petitioner is advised to consult the Manuel of Patent Examining Procedure (MPEP) Section 409.03 for further details. Specifically, Section 409.03(d) states:

> 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.

The renewed petition should provide detailed information concerning Mr. Kastner's whereabouts or what diligent efforts to locate Mr. Kastner, via E-mail, Internet searches or the like, were conducted and that support a finding that the nonsigning inventor could not be found or reached. The diligent efforts taken to locate the whereabouts of the nonsigning inventor should be included in a first-hand statement of facts. It is important that the statement contain facts as opposed to conclusions.

In sum, where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a first-hand statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. Petitioner did not provide a first-hand statement of facts providing any detail of the attempts to reach or locate the nonsigning inventor. Thus, an acceptable reason for filing under 37 CFR 1.47 has not been provided and Item (2) is not satisfied.

<u>Declaration on Behalf of the Non-Signing Inventor</u>

Petitioner has not yet satisfied Item (4). Petitioner submitted a declaration under 37 CFR 1.47(b), executed by attorney Felix J. D'Ambrosio, on behalf of the non-signing inventor, Bernd Kastner. Mr. D'Ambrosio states in the petition that he is authorized to execute the declaration on behalf of the 37 CFR 1.47(b) applicant, Endress. Mr. D'Ambrosio executed the declaration without identifying the 37 CFR 1.47(b) petitioner; that is, the declaration does not state the name of the 37 CFR 1.47(b) applicant, Endress + Hauser GmbH + Co. KG. Pursuant to 37 CFR 1.497(d), where the person making the declaration is not the inventor, the declaration must state the relationship of the person to the inventor, and upon information and belief, the facts which

the inventor is required to state. Item (4) is not satisfied.

Proprietary Interest in the subject matter

Petitioner has not satisfied Item (5) above. Petitioner must prove that the 37 CFR 1.47(b) applicant (Endress + Hauser GmbH +Co. KG) has sufficient proprietary interest in the subject matter to justify filing the application. *See* MPEP §409.03(f). Item (5) is not satisfied.

Accordingly, items (2), (4) and (5) above have not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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 PCT Legal Office.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3286
Fax: 571-273-0459

03/12/2007 SBASHEIR 00000002 020200 10490383
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ALEXANDRIA VA 22314

In re Application of BERND KASTNER Application No.: 10/490,383 PCT No.: PCT/EP02/10784 Int. Filing Date: 26 September 2002 Priority Date: 04 October 2001 Attorney's Docket No.: KAST3001/FJD For: THREE COMPONENTS LINKED TO EACH OTHER BY MEANS OF A WELDED CONNECTION	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on Applicant's "Request to Withdraw Abandonment", filed in the United States Patent and Trademark Office (USPTO) on 21 August 2007.

BACKGROUND

On 12 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 12 February 2007, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was not accompanied by a Statement of Facts under 37 CFR 1.47, based upon first hand knowledge, regarding inventor Kastner's unavailability or refusal to sign the application.

On 12 March 2007, a decision was mailed dismissing the petition. On 13 August 2007, applicant filed a response to the decision along with a request for a three month extension of time. On 17 August 2007, a Notification of Abandonment was mailed to applicant erroneously indicating that applicant had failed to respond to the legal decision dated 12 March 2007.

On 21 August 2007, applicant filed a Request to Withdraw Abandonment along with a USPTO date-stamped receipt.

DISCUSSION

A review of the application file reveals that on 13 August 2007, applicant filed a timely response to the decision mailed on 12 March 2007 along with a three month extension of time, which is granted. A review of the declaration submitted on 13 August 2007 reveals that it is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

The 17 August 2007 Notification of Abandonment is hereby **VACATED**.

The declaration submitted on 13 August 2007 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

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 **13 August 2007.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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AUG 0 4 2008

In re Application of Carpenter. Application No. 10/490,402 Filed: March 23, 2004 Attorney Docket No. 0108-0212	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed January 28, 2008. Accordingly, this application became abandoned on April 29, 2008. A Notice of Abandonment was mailed on June 16, 2008.

Applicant has submitted a proper reply in the form of the issue fee and the publication fee, an acceptable statement of the unintentional nature of the delay in responding to the January 28, 2008 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

04 AUG 2005

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JENKENS & GILCHRIST, PC
1445 Ross Avenue
Suite 3200
Dallas, TX 75202

In re Application of	:	
BRUNSTROM, Leif, et al.	:	
U.S. Application No.: 10/490,405	:	
PCT No.: PCT/EP02/10609	:	DECISION
International Filing Date: 20 September 2002	:	
Priority Date: 28 September 2001	:	
Attorney's Docket No.: 53807-0011USPX	:	
For: MOBILE COMMUNICATIONS TERMINAL	:	

This decision is issued in response to applicants' 06 October 2004 submission of a declaration in which the surname of one of the inventors has been changed, treated herein as a petition to correct the inventor's name. No petition fee has been charged.

BACKGROUND

On 20 September 2002, applicant filed international application PCT/EP02/10609 which claimed a priority date of 28 September 2001 and which designated the United States. On 28 September 2001, 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., 28 March 2004.

On 24 November 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 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an executed declaration and the surcharge for filing the declaration later than thirty months after the priority date.

On 06 October 2004, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and the executed declaration considered herein. The inventor identified on the international application as Thomas PERSSON executed the declaration under a different name, Thomas ENGLEMARK.

On 14 October 2004, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) that identified 06 October 2004 as the 35 U.S.C. 371(c) date for this application. A filing receipt was also issued.

On 24 October 2004, applicants filed a request for corrected filing receipt requesting that the priority claim to the U.S. provisional application be added, that the residence cities of each of the four applicants be corrected, and that the spelling of the name of the inventor identified on the declaration as Thomas ENGLEMARC be corrected to ENGLEMARK.

On 20 May 2005, a corrected filing receipt was issued. The corrected filing receipt included the requested changes regarding the inventors' residence addresses, but it did not include the priority reference to the provisional application or the correction of the inventor's name.

DISCUSSION

A review of the application file reveals that the declaration filed 06 October 2004 is defective. Section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, one of the inventors identified in the international application is Thomas PERSSON; on the declaration, this inventor's surname was changed to ENGLEMARK. The submission of this declaration is treated herein as a request to correct the inventor's name. However, as set forth above, because the correction involves more than a mere typographical error or a phonetic misspelling of the applicant's name, a petition under 37 CFR 1.182 is required to correct the name of record for this inventor.

The declaration filed on 06 October 2004 was not executed by inventor of record Thomas PERSSON. As such, the declaration is not properly executed and cannot be accepted under 37 CFR 1.497. The oath or declaration requirement of 35 U.S.C. 371(c)(4) therefore remains unsatisfied.

The Notification Of Acceptance mailed 14 October 2004 and the corrected filing receipt mailed 20 May 2005, based as they were on applicants' purported satisfaction of the 35 U.S.C. 371(c) requirements on 06 October 2004, are appropriately vacated.

CONCLUSION

Applicants' request to correct the name inventor Thomas PERSSON to Thomas ENGLEMARK is **DISMISSED** without prejudice.

The Notification Of Acceptance and filing receipt mailed 14 October 2004 (and the corrected filing receipt mailed 20 May 2005) are hereby **VACATED**.

Applicant has **TWO (2) MONTHS** from the mail date of the present communication to submit a revised oath or declaration executed by all the inventors of record herein in compliance with 37 CFR 1.497, accompanied by a grantable petition under 37 CF 1.182 to correct the name of record for inventor Thomas PERSSON to Thomas ENGLEMARK.

Failure to file a proper response in a timely manner will result in **ABANDONMENT** of the application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

04 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY

AUG 0 8 2005

JENKENS & GILCHRIST

53807-111 USPX

JENKENS & GILCHRIST, PC
1445 Ross Avenue
Suite 3200
Dallas, TX 75202

In re Application of
BRUNSTROM, Leif, et al.
U.S. Application No.: 10/490,405
PCT No.: PCT/EP02/10609
International Filing Date: 20 September 2002
Priority Date: 28 September 2001
Attorney's Docket No.: 53807-0011USPX
For: MOBILE COMMUNICATIONS TERMINAL

DECISION

This decision is issued in response to applicants' 06 October 2004 submission of a declaration in which the surname of one of the inventors has been changed, treated herein as a petition to correct the inventor's name. No petition fee has been charged.

BACKGROUND

On 20 September 2002, applicant filed international application PCT/EP02/10609 which claimed a priority date of 28 September 2001 and which designated the United States. On 28 September 2001, 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., 28 March 2004.

On 24 November 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 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an executed declaration and the surcharge for filing the declaration later than thirty months after the priority date.

On 06 October 2004, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and the executed declaration considered herein. The inventor identified on the international application as Thomas PERSSON executed the declaration under a different name, Thomas ENGLEMARK.

* DOCKETED
Int: M DT: 8/8/05
Decision on Petition
Action Compl Date: 8/4/05
Corrected Papers Due - 10/4/05

On 14 October 2004, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) that identified 06 October 2004 as the 35 U.S.C. 371(c) date for this application. A filing receipt was also issued.

On 24 October 2004, applicants filed a request for corrected filing receipt requesting that the priority claim to the U.S. provisional application be added, that the residence cities of each of the four applicants be corrected, and that the spelling of the name of the inventor identified on the declaration as Thomas ENGLEMARC be corrected to ENGLEMARK.

On 20 May 2005, a corrected filing receipt was issued. The corrected filing receipt included the requested changes regarding the inventors' residence addresses, but it did not include the priority reference to the provisional application or the correction of the inventor's name.

DISCUSSION

A review of the application file reveals that the declaration filed 06 October 2004 is defective. Section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, one of the inventors identified in the international application is Thomas PERSSON; on the declaration, this inventor's surname was changed to ENGLEMARK. The submission of this declaration is treated herein as a request to correct the inventor's name. However, as set forth above, because the correction involves more than a mere typographical error or a phonetic misspelling of the applicant's name, a petition under 37 CFR 1.182 is required to correct the name of record for this inventor.

The declaration filed on 06 October 2004 was not executed by inventor of record Thomas PERSSON. As such, the declaration is not properly executed and cannot be accepted under 37 CFR 1.497. The oath or declaration requirement of 35 U.S.C. 371(c)(4) therefore remains unsatisfied.

The Notification Of Acceptance mailed 14 October 2004 and the corrected filing receipt mailed 20 May 2005, based as they were on applicants' purported satisfaction of the 35 U.S.C. 371(c) requirements on 06 October 2004, are appropriately vacated.

CONCLUSION

Applicants' request to correct the name inventor Thomas PERSSON to Thomas ENGLEMARK is **DISMISSED** without prejudice.

The Notification Of Acceptance and filing receipt mailed 14 October 2004 (and the corrected filing receipt mailed 20 May 2005) are hereby **VACATED**.

Applicant has **TWO (2) MONTHS** from the mail date of the present communication to submit a revised oath or declaration executed by all the inventors of record herein in compliance with 37 CFR 1.497, accompanied by a grantable petition under 37 CF 1.182 to correct the name of record for inventor Thomas PERSSON to Thomas ENGLEMARK.

Failure to file a proper response in a timely manner will result in **ABANDONMENT** of the application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Attorney Docket No.: P14843-US2

Patent Application for:

MOBILE COMMUNICATIONS TERMINAL

U.S. Application No.: 10/490,405
Int. Filing Date: 20 September 2002
Priority Date: 28 September 2001

AFFIDAVIT OF THOMAS ENGELMARK

I, Thomas Engelmark, formerly known as Thomas Persson, am a joint inventor of the referenced patent application. I hereby declare that:

1. On September 20, 2002, I was named as a joint inventor on international application PCT/EP02/10609 under the name Thomas Persson, my legal name at the time.

2. On 2002-06-25, I concluded a legal name change, changing my legal name from Thomas Persson to Thomas Engelmark. A copy of the legal name change document is enclosed.

3. On August 9, 2004, I executed a Declaration that was filed with the U.S. Patent and Trademark Office using the name Thomas Engelmark instead of the name Thomas Persson.

4. The filing of the Declaration was without deceptive intent.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Thomas Engelmark

PATENT- OCH REGISTRERINGSVERKET

NAMNBEVIS

PATENT- OCH REGISTRERINGSVERKET

har idag efter ansökan godkänt efternamnet

Engelmark

För
Nils Thomas Persson

personnummer
671019-8950

Skattemyndighet
Stockholm

Skattekontor
Stockholm 1

Kopia av detta namnbevis har tillställts vederbörande skattemyndighet för registrering i folkbokföringsregistret.

Söderhamn den 25 juni 2002

Patent- och registreringsverket

Birgitta Persson
Enheten för Personnamn

Övrig information, se omstående sida.

NAME CERTIFICATE

The Patent- and Registration Office

Has today upon application passed the family name

Engelmark

For
Nils Thomas Persson

Personal code number
671019-8950

Tax authority
Stockholm

Tax office
Stockholm 1

A copy of this certificate of name has been handed to tax office concerned for registration in the National Registration.

Söderhamn June 25, 2002

The Patent- and Registration Office

Birgitta Person
Department for personal names

Other information on the back

This is to certify that this is a correct translation of NAMNBEVIS for Thomas Engelmark.

2005-10-25
Date Catarine Berglund, Ericsson AB

051025
Date Peter Ericsson Nestler, Ericsson AB

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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22 FEB 2006

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO TX 75024

In re Application of:	:	
BRUNSTROM, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/490,405	:	CHANGE INVENTOR'S NAME
PCT No.: PCT/EP02/10609	:	(37 CFR 1.182)
International Filing Date: 20 September 2002	:	
Priority Date: 28 September 2001	:	
Attorney's Docket No.: P14843-US2	:	
For: MOBILE COMMUNICATIONS	:	
TERMINAL	:	

This decision is issued in response to the "Petition For Inventor Name Change Under 37 CFR 1.182" filed by applicants on 04 November 2005. Deposit Account No. 50-1379 will be charged the required $400 petition fee.

BACKGROUND

In a decision mailed by this Office on 04 August 2005, applicants' request to correct the name of record for inventor Thomas PERSSON to Thomas ENGLEMARK was dismissed without prejudice. The decision stated that a petition under 37 CFR 1.182 was required for this name change.

The 04 August 2005 decision also vacated the previously mailed Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt due to the failure of the declaration filed 06 October 2004 to properly identify the inventors of record herein.

On 04 November 2005, applicants filed the "Petition For Inventor Name Change Under 37 CFR 1.182" considered herein (with required extension fee).

DISCUSSSION

Applicants' 04 November 2005 submission included an "Affidavit Of Thomas ENGELMARK," with accompanying documents. These materials confirm that this inventor has legally changed his name from Thomas PERSSON (the name of record for this inventor, as set forth on the international application) to Thomas ENGELMARK, as set forth on the declaration filed herein on 06 October 2004. These materials, in combination with the $400 petition fee that will be charged to Deposit Account No. 50-1379, satisfy the requirements for a grantable petition under 37 CFR 1.182 to change this inventor's name.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Thomas PERSSON to Thomas ENGELMARK is **GRANTED**.

Based on the above, the declaration filed 06 October 2004 is now acceptable in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 06 October 2004.

Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
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FAY SHARPE LLP
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CLEVELAND OH 44114

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MAR 06 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David John Pritchett et al. :
Application No. 10/490,406 :
Filed: January 24, 2005 :
Attorney Docket No. MBNZ200018 :

This is a decision on the petition to withdraw the holding of abandonment, filed February 4, 2008, and treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on September 18, 2007 for failure to timely a response to the non-Final Office Action mailed June 15, 2007. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on January 10, 2008.

Petitioner asserts that a proper response in the form of an amendment with a three month extension of time was filed on December 13, 2007. Submitted as proof is a a copy of the response said to have been filed on December 13, 2007.

A search of the application file and the USPTO records reveals that in fact, an amendment and three month extension of time were timely filed on December 17, 2007, with a December 13, 2007 certificate of mail date), and are of record.

Accordingly, the Notice of Abandonment mailed January 10, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. The extension of time fee in the amount of $1050 was charged upon receipt and a duplicate charge in the amount of $1050 was charged with the instant petition. Therein, petitioner's credit card will be credited in the amount of $1050 for the overpayment.

This matter is being referred to Technology Center 3754 for treatment of the response filed December 17, 2007(December 13,2 007 certificate of mail date).

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20005

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of
Kondoh, et al.
Application No. 10/490,412
Filed: March 23, 2004
Attorney Docket No. 12112-0002
For: MAGNESIUM BASE COMPOSITE MATERIAL

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed October 3, 2008, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicant's alleged failure to reply within an extendable one month or thirty day (whichever was longer) period from the mailing of the December 4, 2006 Restriction Requirement. The Office contended that this application became abandoned on January 5, 2007. A Notice of Abandonment was mailed on July 3, 2007.

Petitioners assert that an election was timely received in the Office on December 20, 2006. In support of this assertion, petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing December 20, 2006 as the date of receipt, affixed thereto. The postcard lists that the filing included an election.

The return postcard constitutes *prima facie* evidence that the item listed thereon was received in the Office on December 20, 2006. MPEP 503. Petitioners have provided a copy of the December 20, 2006 election. Accordingly, the petition to withdraw the holding of abandonment is granted.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1793 for consideration of the election filed on December 20, 2006 and resubmitted with the present petition on October 3, 2008.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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022006

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

FEB 28 2006

In re Application of:	:	
Didier Elbaz et al.	:	DECISION ON PETITION
Serial No.: 10/490,414	:	TO WITHDRAW FINALITY OF OFFICE
Filed: March 23, 2004	:	ACTION
Attorney Docket No.: 032326-270	:	

This is a decision on the petition, filed January 03, 2006, requesting that the finality of the Office action of September 13, 2005 be withdrawn.

The petition is DENIED.

Petitioner asserts that the Final Office action of September 13, 2005 contains new grounds of rejection, which are not necessitated by an amendment and, thus, it is improper for the examiner to make the action final.

A review of the application file record indicates that a non-final Office action was issued on November 17, 2004. An amendment was filed on February 17, 2005 in response to an Office action of November 17, 2004. The amendment introduces into the claims subject matter that was not earlier presented. Further search was conducted and an Office action was mailed on May 26, 2005, and the action included new grounds of rejection and was made final. A request for reconsideration was filed on August 25, 2005, without an amendment to the claims. Upon reconsideration, the final Office action of May 26, 2005 was withdrawn and a new Office action containing new grounds of rejection based on prior art not previously of record was issued on September 13, 2005. The Office action of September 13, 2005 was made final because the new grounds of rejection were deemed necessitated by the February 17, 2005 amendments to the claims. A "Request for Withdrawal of the Finality of Office Action" was filed on October 5, 2005, requesting withdrawal of the finality of the September 13, 2005 Office action on grounds that it was prematurely made final. The request was apparently considered by the examiner and Advisory Action was issued to indicate that the "Request to withdraw final is not granted (final action is proper)." The instant petition was filed under 37 CFR 1.181, on January 3, 2006, to

request supervisory review of the propriety of the finality of the Office action of September 13, 2005.

Under MPEP § 706.07(a), second or subsequent actions on the merits shall be made final except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the amendment.

The Examiner withdrew the Final Office action of May 26, 2005 upon receipt of Request for Reconsideration filed August 25, 2005. Since the Office action of May 26, 2006 was withdrawn or vacated, the claims as amended on February 17, 2005 must then be reconsidered on their merits, and, pursuant to MPEP § 706.07(a), if found not allowable, may be rejected on newly cited prior art and the next Office action may be made final since the February 17, 2005 contains subject matter not presented prior thereto for examination. The Office action of September 13, 2005 was properly made final.

The argument that the response dated October 5, 2005 did not amend any claims and thus, the Office action in response thereto may not be made final since no amendment has been filed is not found persuasive. The determination as to whether the Office action was properly made final is based on the claims in their latest amended form that have not been treated on the merits. In this instance, these claims are those presented by the amendment of February 17, 2005.

For the above-stated reasons, the finality of the Office action of September 13, 2005 is proper and the petition is denied.

The statutory period for reply was extended to run 4 (four) months from the date of the final Office action. This period for reply may not be extended to exceed 6 (six) months from September 13, 2005, the date of the final Office action.

Any inquiry regarding this decision should be directed to Tulsidas C. Patel, Supervisory Patent Examiner, at (571) 272-2098.

Richard K. Seidel, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Guyaux et al.	:	
Application No. 10/490,436	:	ON PETITION
Filed: May 7, 2004	:	
Attorney Docket No. 2004-0423A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 19, 2006 (resubmitted on January 18, 2007), to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on May 19, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

PTO/SB/83 (05-03)
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.

OIPE
FEB 2 3 2005
PATENT & TRADEMARK OFFICE

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/490,437
Filing Date	March 24, 2004
First Named Inventor	Andreas HABICH
Art Unit	Not yet assigned
Examiner Name	Not yet assigned
Attorney Docket Number	532622006400

Approved
7/20/05
Jacqueline M. Stone, Director
Technology Center 1700

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **BASF Aktiengesellschaft**

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → [ ]

OR

☒ Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

☒ This request is made on behalf of myself 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 25227

This request is enclosed in **triplicate** (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	February 23, 2005

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.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: February 23, 2005 Signature: _____ (Chimin Taylor)

va-94564

30 SEP 2004

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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STAAS & HALSEY LLP
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WASHINGTON DC 20005

In Re Application of ARETZ et al. Application No.: 10/490,443 PCT No.: PCT/DE02/03533 Int. Filing Date: 20 September 2002 Priority Date: 24 September 2001 Attorney Docket No.: 1454.1545 For: CHARGING DEVICE FOR MOBILE TERMINALS WITH AN INTEGRATED POWERLINE MODEM	DECISION ON PETITION

This is a decision on applicant's "RESPONSE TO NOTICE OF ACCEPTANCE" filed in the United States Patent and Trademark Office (USPTO) on 02 September 2004.

BACKGROUND

On 20 September 2002, applicant filed international application No. PCT/DE02/03533 which claimed a priority date of 24 September 2001 and which designated the United States. Thereafter, on 24 March 2004, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. Applicant also filed an executed German language declaration.

On 26 August 2004, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) erroneously indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 March 2004.

On 02 September 2004, applicant sent the original declaration for filing, which was executed on 18 March, 23 March and 25 March 2004. Applicant urges that the Form 903 be corrected to indicate a filing date of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) filing date of 02 September 2004.

DISCUSSION

A review of the application file indicates that the executed combined declaration and power of attorney, in compliance with 37 CFR 1.497(a) and (b), was deposited with the USPTO on 02 September 2004. A review of the application in the USPTO's Image File Wrapper (IFW) file confirms that the executed German language declaration was submitted on 24 March 2004, which does not comply with 37 CFR 1.497(a) & (b). The Notification of Acceptance mailed on 26 August 2004 was erroneously issued.

The evidence of record is sufficient to establish with reasonable certainty that the combined declaration and power of attorney was filed with the USPTO on 02 September 2004. A filing date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 02 September 2004 will be

accorded application 10/490,443.

The actual filing date of the present application is considered to be the international filing date, 20 September 2002. The application file indicates that applicant completed the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 02 September 2004. The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 26 August 2004 indicated an improper 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date and is **vacated**. (Note MPEP section 1893.03(b).)

CONCLUSION

Applicant's request to correct the Notification of Acceptance to reflect the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 September 2004 is GRANTED. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 September 2004 will be accorded application 10/490,443.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 26 August 2004 is hereby **VACATED**.

This application is being forwarded the US Designated/Elected Office for issuance of a corrected Notification of Acceptance (FORM PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **02 September 2004**.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703)306-5467

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
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EAST PALO ALTO CA 94303

In re Application of

Henry H. Hsu
Application No. 10/490,456
Filed: August 20, 2004
Attorney Docket No. INTM-009

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 24353. 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).

Paula A. Borden signed the request on behalf of all attorneys of record.

Paula A. Borden and all attorneys/agents associated with 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 because there is no address of record for the inventor.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Daniel Hansburg
Partner
Brown Raysman Millstein Felder & Steiner LLP
900 Third Avenue
New York, New York 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/490,456	03/22/2004	Henry H. Hsu	INTM-009

CONFIRMATION NO. 6577

OC000000020207780

24353
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EAST PALO ALTO, CA 94303

Date Mailed: 08/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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www.uspto.gov

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK NY 10150-1510

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DEC 26 2007
OFFICE OF PETITIONS

In re Application of

HSU, Henry H.
Application No. 10/490,456
Filed: March 22, 2004
Attorney Docket No. **6319-4507US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCDERMOTT, WILL & EMERY**
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

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MORGAN, LEWIS & BOCKIUS LLP
2 Palo Alto Square
3000 El Camino Real
Palo Alto California 94306

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of
Henry H. Hsu
Application No. 10/490,457
Filed: August 16, 2004
Attorney Docket No. 64976-5002 US

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 02, 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 attorneys/agents associated with customer number 43850. 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).

Jeffry S. Mann signed the request on behalf of all attorneys of record.

Jeffry S. Mann and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant, because there is no address of record for the inventor.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: INTURMUNE, INC.
3280 BAYSHORE BOULEVARD
BRISBANE, CALIFORNIA 94005

CC: Nan Wu
Cooley Godward LLP
101 California Street, 5th Floor
San Francisco, CA 94111-5800

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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
10/490,457	08/16/2004	Henry H. Hsu	INTM-006

CONFIRMATION NO. 6574

OC000000020532832

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 09/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/02/2006.

- 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.

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

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Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Gary Visor	:	
Application No. 10/490,458	:	DECISION ON PETITION
Filed: September 30, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paula A. Borden on behalf of all attorneys of record who are associated with Customer No. 24353.

All attorneys/agents associated with the Customer No. 24353 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

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: **Gary Visor**
2735 Saint James Road
Belmont, CA 94002

cc: **Daniel Hansburg, Partner**
Brown Raysman Millstein Felder & Steiner LLP
900 Third Avenue
New York, New York 10022

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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
10/490,458	09/30/2004	Gary Visor	

CONFIRMATION NO. 6580

OC000000022583797

OC000000022583797

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 02/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

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OFFICE OF PETITIONS

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK NY 10150-1510

In re Application of

VISOR, Gary
Application No. 10/490,458
Filed: September 30, 2004
Attorney Docket No. **6319-4506US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCDERMOTT, WILL & EMERY**
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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DEC 16 2008

OFFICE OF PETITIONS

In re Application of :
Horvath, et al. : LETTER REGARDING PTA
Application No. 10/490,464 :
Filed: October 1, 2004 :
Atty. Dkt. No.: 4-32134A :

This letter is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER C.F.R. §1.705(d)," filed May 21, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 25, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 571 days. Applicants indicate that the correct adjustment is 543 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 543 days, as indicated by applicants.

The adjustment of 571 days is has been reviewed and does not contain an error.

However, the Office neglected to assess a reduction in connection with the reply filed February 7, 2008 in response to the non-final Office action mailed October 10, 2007. In accordance with 37 CFR 1.704(b), the reduction commenced January 11, 2008, the day after the date that is three months after the date that the non-final Office action was mailed, and ended February 7, 2008, the date that the reply thereto was filed.

Accordingly, as of the time of allowance, the application is entitled to an adjustment of 543 days (adjustment totalling 571 days less reduction of 28 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 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: 08:09:37

PTA Calculations for Application: 10/490464			
Application Filing Date:	10/01/2004	PTO Delay (PTO):	571
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	543
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
53	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	43		
52	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		43	
42	02/25/2008	MAIL NOTICE OF ALLOWANCE			
41	02/21/2008	ISSUE REVISION COMPLETED			
40	02/21/2008	DOCUMENT VERIFICATION			
39	02/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	02/19/2008	CASE DOCKETED TO EXAMINER IN GAU			
37	02/19/2008	NOTICE OF ALLOWABILITY			
29	02/05/2008	DATE FORWARDED TO EXAMINER			
28	01/09/2008	RESPONSE AFTER NON-FINAL ACTION			
27	10/10/2007	MAIL NON-FINAL REJECTION			
26	10/09/2007	NON-FINAL REJECTION			
25	09/25/2007	DATE FORWARDED TO EXAMINER			
24	09/21/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
23	09/21/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	10/01/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	06/25/2007	MAIL RESTRICTION REQUIREMENT	571		-1
17	06/22/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
16	06/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	08/12/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	08/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	10/01/2004	REFERENCE CAPTURE ON IDS			

12.7	10/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	10/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/25/2004	CLEARED BY OIPE CSR			
8	11/25/2004	CLEARED BY OIPE CSR			
7	10/01/2004	371 COMPLETION DATE			
6	11/12/2004	APPLICATION DISPATCHED FROM OIPE			
5	11/12/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	10/01/2004	ADDITIONAL APPLICATION FILING FEES			
3	10/01/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/490,492	12/03/2004	Timothy J.N. Smith	SMB-7791PCT/US	4821

7590 12/05/2007

Jeffrey S. Abel
Larson, Newman, Abel, Plansky & White LLP
Suite 200
5914 West Couryard Drive
Austin, TX 78730

EXAMINER
VO, HAI

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
12/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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CST

12-5-07

In re application of	:	
Timothy J.N. Smith et al	:	
Serial No. 10/490,492	:	DECISION ON
Filed: December 3, 2004	:	PETITION
For: POROUS CERAMIC COMPOSITE	:	
BONE GRAFTS	:	

This is a decision on the PETITION UNDER 37 CFR 1.181, filed April 27, 2007 (Certificate of Mailing April 25, 2007). Petitioner requests that a new Office Action be issued with regard to claims 1-53 as submitted in the Article 19 Amendment in response to the Written Opinion.

Background

PCT/CA02/01450 was filed on September 24, 2002 in the English language with 27 pages of specification and 46 claims.

According to the International Preliminary Examination Report (PCT/IPEA/409) of February 4, 2004, the basis of the report was claims 1-53 received on October 8, 2003; pages 1-8 and 11-17 as originally filed; and pages 9 and 10 received on October 8, 2003. It is noted that the pages containing originally filed claims 1-46 are stamped with the notation "Replaced by Art 34 Amdt". Similarly, originally filed pages 9 and 10 are also stamped with the same notation.

According to MPEP 1893.01(a)(3),

> Amendments to the international application that were properly made under PCT Article 34 during the international preliminary examination phase (i.e., Chapter II) will be annexed by the International Preliminary Examining Authority to the international preliminary examination report (IPER) and communicated to the elected Offices. See PCT Article 36, PCT Rule 70.16, and MPEP § 1893.03(e). If these annexes are in English, they will normally be entered into the U.S. national stage application by the Office absent a clear instruction by the applicant that the annexes are not to be entered.

Additionally, note the DO/EO Worksheet of March 22, 2004 which acknowledges the receipt of the Annexes to the 409.

Thus, the proper claims for examination at the time that the non-final Office action of January 22, 2007 was mailed were claims 1-53, and not claims 1-46 as indicated by the examiner.

It is noted, however, that on July 17, 2007, applicant filed a response to the Office action of January 22, 2007 in which claims 1-46 were canceled, and new claims 47-71 were added. As the claims present for examination were claims 1-53, and not claims 1-46, claims 47-71 will be renumbered in accordance with 37 CFR 1.126 to begin with claim 54.

As the proper claims were not examined, and as applicant has submitted an amendment of July 17, 2007 in which all of the claims examined by the examiner have been canceled, this application will be forwarded to the examiner for prompt consideration of claims 47-71 (renumbered as claims 54-78).

The petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline M. Stone
Director, Technology Center 1700
High Polymer Chemistry, Plastics,
Stock Materials and Compositions

21 JAN 2005

#6

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Robin W Asher
Clark Hill PLC
500 Woodward Avenue
Suite 3500
Detroit MI 48226-3435

In re Application of	:	
KORNYLO et al.	:	
Application No.: 10/490,499	:	DECISION
PCT No.: PCT/US02/31543	:	
Int. Filing Date: 02 October 2002	:	
Priority Date: 04 October 2001	:	
Attorney Docket No.: 19364-097000	:	
For: INSTRUMENT PANEL HAVING FLEXIBLE	:	
STEERING WHEEL COLUMN CLOSEOUT AND	:	
METHOD FOR ASSEMBLING SAME	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 10 December 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 October 2002, applicants filed international application PCT/US02/31543, which designated the United States and claimed a priority date of 04 October 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 10 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 April 2004 (04 April 2004 being a Sunday).

On 22 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 December 2004, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a

petition/fee for a two month extension of time, a statement of facts by Peter J. Rashid, a copy of a letter to the non-signing inventor James R. Lytle, and a copy of the front of an envelope mailed via UPS.

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.

As to item (1), the petition fee of $200 under 37 CFR 1.17(g) has been charged to Deposit Account 50-3145. Thus, item (1) has been satisfied.

Item (3) has been satisfied.

Item (2) has not been satisfied. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, there are no facts recited in the statement of facts; the statement merely includes a notation to see the attached letter and copy of returned envelope. Further, it is not clear that Mr. Rashid has firsthand knowledge. See, for example, the copy of the letter which is signed by Lisa Terry rather than Mr. Rashid. Statements based on hearsay will not normally be accepted. Additionally, no effort appears to have been made to find a forwarding address for the non-signing inventor. For example, it does not appear that the inventors' employer at the time the invention was contacted, nor does it appear that an internet search for any of the inventor was performed.

Item (4) has not been satisfied. The declaration filed 10 December 2004 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes two "Page 3 of [4]". This suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Each submitted declaration must be complete, even if executed by only one of the inventors. Also, the published international application lists Walter Paul Cornylo as inventor while the declaration filed 10 December 2004 lists Walter Paul Kornylo as inventor. Regarding these differences in names, a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

15 MAY 2006

#13

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JOHN P. GUENTHER
HONIGMAN MILLER SCHWARTZ & COHN LLP
38500 WOODWARD AVENUE
SUITE 100
BLOOMFIELD HILLS, MI 48304-5048

In re Application of	:	
KORNYLO et al.	:	
Application No.: 10/490,499	:	DECISION
PCT No.: PCT/US02/31543	:	
Int. Filing Date: 02 October 2002	:	
Priority Date: 04 October 2001	:	
Attorney Docket No.: 19364-097000	:	
For: INSTRUMENT PANEL HAVING FLEXIBLE	:	
STEERING WHEEL COLUMN CLOSEOUT AND	:	
METHOD FOR ASSEMBLING SAME	:	

This is a decision on applicants' submission filed via facsimile transmission on 22 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 October 2002, applicants filed international application PCT/US02/31543, which designated the United States and claimed a priority date of 04 October 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 10 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 April 2004 (04 April 2004 being a Sunday).

On 22 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 December 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a petition/fee

for a two month extension of time, a statement of facts by Peter J. Rashid, a copy of a letter to the non-signing inventor James R. Lytle, and a copy of the front of an envelope mailed via UPS.

On 21 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 04 April 2005, applicants filed a submission via facsimile transmission which included, inter alia, a copy of a "RENEWED PETITION UNDER 37 CFR 1.47(a)", a copy of a "SUPPLEMENTAL RENEWED PETITION UNDER 37 CFR 1.47(a)", and a copy of a date-stamped postcard receipt.

On 25 May 2005, a decision was mailed granting applicants' petition requesting that the copy of the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 04 April 2005 be accepted as having been originally received in the USPTO on 24 February 2005 and dismissing applicants' renewed petition under 37 CFR 1.47(a) without prejudice.

On 13 February 2006, applicants filed a communication inquiring about the status fo the response to the renewed petition under 37 CFR 1.47(a) filed 21 February 2005 and the supplemental renewed petition filed on 04 April 2005. The communication also included a copy of the decision mailed 25 May 2005.

On 09 March 2006, a status report was mailed indicating that a decision on the renewed petition was mailed 25 May 2005 and that this decision was mailed to the correct address since a change of address was not filed in the present application until 12 September 2005. The communication also included a copy of the decision mailed 25 May 2005.

On 22 March 2006, applicants filed the instant submission via facsimile transmission, which includes a petition under 37 CFR 1.181 to accept a copy of a "REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS" as having been filed 17 December 2004 and a second renewed petition under 37 CFR 1.47(a).

DISCUSSION

Petition Under 37 CFR 1.181

The submission filed 22 March 2006 requests in effect that the copy of the "REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS" accompanying the submission be accepted as having been originally received in the USPTO on 17 December 2004. Applicants have provided sufficient evidence to establish that on 17 December 2004 applicants filed such a power of

attorney. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 17 December 2004 and which itemizes a power of attorney and identifies the above-captioned application number and title. Further, practitioner states that the copy of the power of attorney filed 22 March 2006 is a copy of the power of attorney originally filed 17 December 2004. Therefore, in view of the date-stamped receipt and practitioner's statement, the power of attorney received on 22 March 2006 may properly be accepted as originally received in the USPTO on 17 December 2004.

Since the decision mailed 25 May 2005 was mailed to an incorrect address, it is hereby VACATED. The mailing date of this decision is 09 March 2006, when a copy of the decision was mailed to the correct address. Accordingly, applicants' second renewed petition under 37 CFR 1.47(a) is timely.

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.

As noted in the decision mailed 21 January 2005, items (1) and (3) have been satisfied.

Item (2) has now been satisfied.

Item (4) has now been satisfied as well. The difference in the spelling of the last name of inventor Walter Paul Kornylo is accepted.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to 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 Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **10 December 2004**.

Daniel Stemmer

Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

15 MAY 2006

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P.O. Box 1450
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James R. Lytle
7262 Rabbit Ears Pass
Clarkston, Michigan 48346

In re Application of
KORNYLO et al.
Application No.: 10/490,499
PCT No.: PCT/US02/31543
Int. Filing Date: 02 October 2002
Priority Date: 04 October 2001
Attorney Docket No.: 19364-097000
For: INSTRUMENT PANEL HAVING FLEXIBLE STEERING WHEEL COLUMN CLOSEOUT AND METHOD FOR ASSEMBLING SAME

Dear Mr. Lytle:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Daniel Stemmer
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25 MAY 2005

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Robin W Asher
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Suite 3500
Detroit MI 48226-3435

In re Application of	:	
KORNYLO et al.	:	
Application No.: 10/490,499	:	DECISION
PCT No.: PCT/US02/31543	:	
Int. Filing Date: 02 October 2002	:	
Priority Date: 04 October 2001	:	
Attorney Docket No.: 19364-097000	:	
For: INSTRUMENT PANEL HAVING FLEXIBLE	:	
STEERING WHEEL COLUMN CLOSEOUT AND	:	
METHOD FOR ASSEMBLING SAME	:	

This is a decision on applicants' submission filed via facsimile transmission on 04 April 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 October 2002, applicants filed international application PCT/US02/31543, which designated the United States and claimed a priority date of 04 October 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 10 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 April 2004 (04 April 2004 being a Sunday).

On 22 March 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 December 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a

petition/fee for a two month extension of time, a statement of facts by Peter J. Rashid, a copy of a letter to the non-signing inventor James R. Lytle, and a copy of the front of an envelope mailed via UPS.

On 21 January 2005, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 04 April 2005, applicants filed the instant submission via facsimile transmission which included, inter alia, a copy of a "RENEWED PETITION UNDER 37 CFR 1.47(a)", a copy of a "SUPPLEMENTAL RENEWED PETITION UNDER 37 CFR 1.47(a)", and a copy of a date-stamped postcard receipt.

DISCUSSION

Petition Under 37 CFR 1.181

The submission filed 04 April 2005 requests in effect that the copy of the "RENEWED PETITION UNDER 37 CFR 1.47(a)" accompanying the submission be accepted as having been originally received in the USPTO on 24 February 2005. Applicants have provided sufficient evidence to establish that on 24 February 2005 applicants filed a renewed petition under 37 CFR 1.47(a). The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 24 February 2005 and which itemizes the renewed petition and identifies the above-captioned application number and title. Further, practitioner states that the copy of the renewed petition filed 04 April 2005 is a copy of the renewed petition originally filed 24 February 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the renewed petition received on 04 April 2005 may properly be accepted as originally received in the USPTO on 24 February 2005.

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.

As noted in the decision mailed 21 January 2005, items (1) and (3) have been satisfied.

Item (2) has still not been satisfied. Although an internet search has been performed, it appears that the search was very narrow; it appears that the search was limited to Clarkston, Michigan. A broader search should be conducted.

Item (4) has not been satisfied. As noted previously, the published international application lists Walter Paul Cornylo as inventor while the declaration filed 10 December 2004 lists Walter Paul Kornylo as inventor. This difference in names has not been addressed. A new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application is required.

CONCLUSION

For the above reasons, 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. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
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OFFICE OF PETITIONS

BOZICEVIC, FIELD & FRANCIS LLP
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In re Application of	:	
Henry H. Hsu	:	
Application No. 10/490,503	:	DECISION ON PETITION
Filed: August 20, 2004	:	TO WITHDRAW
Attorney Docket No. INTM-010	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 24353. 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).

Paula A. Borden signed the request on behalf of all attorneys of record.

Paula A. Borden and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

for David Bucci
Petitions Examiner
Office of Petitions

Cc: Henry H. Hsu
370 Robinwood Lane
Hillsborough, California 94010

Cc: Daniel Hansburg
Partner
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15 SEP 2005

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John P White
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1185 Avenue of the Americas
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In Re Application of PHILIPPE COPERET Serial No.: 10/490,513 PCT No.: PCT/FR02/03283 Int. Filing Date: 26 September 2002 Priority Date: 28 September 2001 Attorney Docket No.: 72174/JPW/KBC For: DEVICE AND METHOD FOR ANALYSING THE STRUCTURE OF A MATERIAL	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on a petition under 37 CFR 1.181 filed in the United States Patent and Trademark Office (USPTO) on 01 September 2005, treated as a petition under 37 CFR 1.182.

On 22 March 2004, applicant filed a request for national stage entry under 35 U.S.C. 371 for the above referenced international application. On 10 August 2004, a Notification of Acceptance was mailed to applicant erroneously indicating the date of receipt of all requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) as 22 March 2004.

On 1 September 2005, applicant filed the instant petition along with an executed declaration directed to the above referenced international application. Applicant alleges that the USPTO incorrectly mailed a Filing Receipt and Notice of Acceptance.

A review of the application file reveals that an executed declaration was not previously filed . The Notification of Acceptance (Form PCT/DO/EO/903) was erroneously issued on 10 August 2004 since an oath or declaration in compliance with 37 CFR 1.497(a) and (b) had not been filed and the requirements of 35 U.S.C. 371(c) had not been met. The 10 August 2004 Notification of Acceptance is incorrect and hereby **VACATED**.

A review of the finance records for this application reveals that the $130 surcharge for filing the declaration after the thirty month period was paid. The declaration filed on 01 September 2005 is executed by the sole inventor, in compliance with 37 CFR 1.497(a) and (b), and is acceptable.

The petition under 37 CFR 1.182 is **GRANTED**. The application will be forwarded to the United States Designated/Elected Office for issuance of a new Notification of Acceptance and new filing receipt. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **01 September 2005.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
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29 JUL 2004

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In re Application of	:	
PASTAN et al.	:	
Application No.: 10/490,535	:	
PCT No.: PCT/US02/30316	:	DECISION
Int. Filing Date: 25 September 2002	:	
Priority Date: 26 September 2001	:	
Attorney Docket No.: 015280-438100US	:	
For: MUTATED ANTI-CD22 ANTIBODIES WITH INCREASED AFFINITY TO CD22 EXPRESSING LEUKEMIA CELLS	:	

This is a decision on applicants' "Petition under 37 CFR 1.10(c) to Correct Filing Date and Date in Discrepancy" filed in the United States Patent and Trademark Office (USPTO) on 12 July 2004.

BACKGROUND

On 25 September 2002, applicant filed international application PCT/US02/30316 which claimed a priority date of 25 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 26 March 2004.

On 24 March 2004, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application and a preliminary amendment.

On 24 May 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 09 December 2002, applicants filed "Petition under 37 CFR 1.10(c) to Correct Filing Date and Date in Discrepancy" requesting 23 March 2004 as the actual date of receipt for the instant application.

DISCUSSION

Applicants are requesting that the receipt date for the transmittal letter requesting immediate examination and the national stage application papers are corrected to indicate the correct date on which the transmittal letter for entry into the national stage in the United States and accompanying papers were filed, i.e., 23 March 2004. A copy of the Customer Copy of the "Express Mail" label No. E V332019488US filed with the petition bears a "Date In" which is illegible, however, the United States Postal Service stamp by the San Francisco CA Gateway Station in San Francisco, California, clearly bears a date of 23 March 2004. The same Express Mail label number was placed on the transmittal letter itemizing the accompanying papers located in the application file that was date stamped as received in the PTO on 23 March 2004. Thus, there is a clear discrepancy between the filing date accorded by the PTO and the date of deposit as shown by the Customer Copy of the "Express Mail" label.

The evidence submitted by petitioner is sufficient to establish that on 23 March 2004 the United States Designated/Elected Office (DO/EO/US) received national stage application papers for this application including the basic national fee.

Applicants are reminded that the actual filing date of the present application is considered to be the international filing date, 25 September 2002. The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage are completed. (See MPEP §1895.01)

CONCLUSION

The Petition under 37 CFR 1.10(c) is **GRANTED** and the receipt date for transmittal letter and accompanying papers will be accorded a date of 23 March 2004.

The application is being returned to United States Designated/Elected Office for further processing.

Anthony Smith

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