SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/5/10

TO SPE OF : ART UNIT 1626 Joseph McKane (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/490546 Patent No.: 7342032

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

H. Riley

Certificates of Correction Branch
703-756-1571

Thank You For Your Assistance

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

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

Comments: _____

/Joseph K. McKane/
SPE **Art Unit**

PATENT
Attorney Docket No. 01975.0055-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 7,342,032	)
	)
Inventors: **LANGE et al.**	)
	)
Issue Date.: March 11, 2008	)
	)
For: THIAZOLE DERIVATIVES HAVING CB_1-ANTAGONISTIC, AGONISTIC OR PARTIAL AGONISTIC ACTIVITY	)

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

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 254, and 37 C.F.R. § 1.322, this is a request for a Certificate of Correction in the above-identified patent. The mistake(s) identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent.

The complete Certificate of Correction involves two (2) pages. Issuance of the Certificate of Correction containing the correction is earnestly requested.

Please charge any required fees not included herewith to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 3, 2008

By: _____
Adriana L. Burgy
Reg. No. 48,564
(202) 408-4000

OK to enter
/Jason Nolan/

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,342,032

APPLICATION NO.: 10/490,546

ISSUE DATE: March 11, 2008

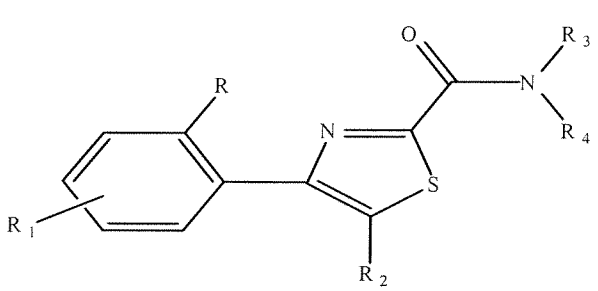
INVENTOR(S): **LANGE et al.**

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

On the Title Page, Item (57), delete the Abstract in its entirety and replace therewith:

--The present invention relates to a group of thiazole derivatives which are potent antagonists, agonists or partial agonists of the cannabinoid CB_1-receptor. The compounds have the general formula (I) wherein R and R_1-R_4 have the meanings given in the specification.

(I)



--.

In claim 1, column 12, line 24, "monoalkyl(C_{1-2})-amido," should read --monoalkyl-(C_{1-2})-amido,--.

In claim 2, column 13, lines 35-36, "(C_{1-10})-tricycloalkyl," should read --(C_{6-10})-tricycloalkyl,--.

In claim 3, column 14, line 32, "aikoxy," should read --alkoxy,--.

In claim 7, column 19, line 44, "substituents 7," should read --substituents Z,--.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

In claim 8, column 20, line 32, "monoalkyl-(C_{1-2})amido," should read --monoalkyl-(C_{1-2})-amido,--.

In claim 8, column 21, lines 45-46, "halogen trifluoromethyl," should read --halogen, trifluoromethyl,--.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

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

Peter G. Carroll
Meldon &Carroll, LLP
101 Howard Street
Suite 350
San Francisco, CA 94105

Mail Date: 04/21/2010

Applicant	: Patrick Hearing	: DECISION ON REQUEST FOR
Patent Number	: 7585498	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/490,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **510** 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.

16 AUG 2004

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of AVIGNON, Gerard et al U.S. Application No.: 10/490,555 PCT No.: PCT/FR99/01071 Int. Filing Date: 06 May 1999 Priority Date: None Attorney Docket No.: 0546-1065 For: METHOD FOR PRODUCING PAPER PULP, LIGNINS, SUGARS AND . . .	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed with the national stage papers on 23 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.

A signed oath or declaration was not included with any of the papers submitted.

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) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

26 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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ALEXANDRIA, VA 22313-1450
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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI
Ten Post Office Square
Boston, MA 02109

In re Application of: PETERSON, Rebecca.	:	
U.S. Application No.: 10/490,564	:	
PCT No.: PCT/EP02/09904	:	DECISION
International Filing Date: 04 September 2002	:	
Priority Date: 18 September 2001	:	
Attorney's Docket No.: MBP-027XX	:	
For: FILTRATION MEMBRANE	:	
	:	

This decision is issued in response to the "petition Under 37 CFR 1.182 To Change Inventor's Name Due To Marriage" filed 22 July 2004. Deposit Account No. 23-0804 will be charged the required $130 petition fee.

BACKGROUND

On 17 March 2004, applicants filed materials to initiate the present national stage application including, among other materials, payment of the basic national fee and a translation of the international application into English, and an executed declaration.

On 22 July 2004, applicants filed the petition considered herein. The petition includes a declaration stating that the name of the inventor as listed in the international application (Rebecca KLOTZER) has been changed to Rebecca PETERSON due to marriage.

DISCUSSION

Under M.P.E.P. Section 605.04(c), a petition to change the name of an inventor must be made under 37 CFR 1.182 and it must include the petition fee and an affidavit signed by the inventor and setting forth the procedure whereby the change of name was effected.

Here, applicant has authorized a charge to Deposit Account No. 23-0804 for the required $130 petition fee, and the petition was accompanied by a copy of a declaration in which the inventor states that her name has changed because of marriage; the declaration was signed by the inventor as "Rebecca Peterson (Formerly Rebecca KLOTZER)."

Based on the above, applicants have submitted all the requirements for a grantable petition to change the inventor's name.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of inventor Rebecca KLOTZER to Rebecca PETERSON is **GRANTED**.

Based on this correction, the declaration filed 27 March 2004 and executed by Rebecca PETERSON is acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Office for further processing in accord 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

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BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO, IL 60690

COPY MAILED
AUG 13 2008

In re Application of :
Karl Schrodi :
Application No. 10/490,568 : ON PETITION
Filed: March 19, 2004 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on July 10, 2008.

The petition is **DISMISSED**.

A review of the application file history reveals the following which are pertinent to the instant petition:

- On August 29, 2007, the Notice of Allowance and Issue Fee Due and Notice of Allowability were mailed, with the issue fee being paid on November 26, 2007.
- By two Interview Summaries dated December 4, 2007, and March 28, 2008, the examiner required applicant to file an amendment under 37 CFR 1.312 to correct paragraphs in the specification where non-existent cancelled claims were used as references. The Interview Summaries indicate that the application cannot proceed to issuance without this correction, but set no period for response.
- On July 2, 2008, a Notice of Abandonment was mailed indicating that the application became abandoned for failure to respond to the March 28, 2008, Interview Summary.

The instant petition was filed on July 10, 2008, wherein petitioner maintains that the holding of abandonment should be withdrawn because no time period for reply was set forth in either Interview Summary and because that the specification contains non-existent claims is not a cause for abandonment of the application.

Petitioner argument is persuasive, however, the petition cannot be granted because no amendment has been filed correcting the issues cited in the Interview Summaries. It would not be prudent to send the application back to the Technology Center without the necessary corrections to application as noted by the Interview Summary. Petitioner should, therefore, file a renewed petition to withdraw the holding of abandonment and include therewith an amendment making the corrections cited by the Interview Summary. Thereafter, the application will be in condition to proceed to issuance.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO, IL 60690

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SEP 19 2008

In re Application of :
Karl Schrodi :
Application No. 10/490,568 : ON PETITION
Filed: March 19, 2004 :
Attorney Docket No.

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on August 25, 2008.

The renewed petition is **GRANTED**.

A review of the application file history reveals the following which are pertinent to the instant petition:

- On August 29, 2007, the Notice of Allowance and Issue Fee Due and Notice of Allowability were mailed, with the issue fee being paid on November 26, 2007.
- By two Interview Summaries dated December 4, 2007, and March 28, 2008, the examiner required applicant to file an amendment under 37 CFR 1.312 to correct paragraphs in the specification where non-existent cancelled claims were used as references. The Interview Summaries indicate that the application cannot proceed to issuance without this correction, but set no period for response.
- On July 2, 2008, a Notice of Abandonment was mailed indicating that the application became abandoned for failure to respond to the March 28, 2008, Interview Summary.
- A petition to withdraw the holding of abandonment was filed on July 10, 2008, and dismissed by a decision mailed.

The instant renewed petition was filed on August 25, 2008, wherein petitioner maintains that the holding of abandonment should be withdrawn because no time period for reply was set forth in either Interview Summary and because that the specification contains non-existent claims is not a cause for abandonment of the application.

Petitioner's argument is persuasive. It is noted that the Interview Summaries set no period for reply. The application should not have been held abandoned for failure to prosecute because the application was not under any specified period for reply. The holding of abandonment is withdrawn accordingly.

The application file is being directed to Technology Center, GAU 2614 for review of the amendment under 37 CFR 1.312 filed August 25, 2008.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DICKINSON WRIGHT, PLLC
1875 Eye Street, NW
Suite 1200
Washington, DC 2006

MAILED
JUL 13 2010
OFFICE OF PETITIONS

In re Application of	:	
Karl Schrodi	:	
Application No. 10/490,580	:	DECISION ON PETITION
Filed: March 19, 2004	:	TO WITHDRAW
Attorney Docket No. 2001P17488WOUS	:	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 27, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Dickinson Wright, PLLC has been revoked by the assignee of the patent application on May 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **LERNER GREENBERG STEMER LLP**
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

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APR 18 2006

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Nakamura et al.	:
Serial No.: 10/490,581	: PETITION DECISION
Filed: March 18, 2004	:
Attorney Docket No.: 082368-000400US	:

This is in response to the petition under 37 CFR § 1.59(b), filed February 7, 2006, to expunge information from the above identified application.

Petitioner requests that the Proprietary Information Disclosure Statement, filed December 9, 2005, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, applicants' petition is GRANTED.

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

George C. Elliott

George Elliott
Director, Technology Center 1600

10 SEP 2004

#6

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ALEXANDRIA, VA 22313-1450
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Claude Nassif
Greenberg Traurig LLP
2450 Colorado Avenue; Suite 400E
Santa Monica, California 90404

In re Application of	:	
LEUNG et al.	:	
Application No.: 10/490,591	:	DECISION ON PETITION
PCT No.: PCT/AU02/00960	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 18 July 2002	:	
Priority Date: 19 July 2001	:	
Attorney Docket No.: 58157013800	:	
For: RECORDING A THREE DIMENSIONAL AUDITORY SECENE AND REPRODUCING IT FOR THE INDIVIDUAL LISTENER		

The petition to revive under 37 CFR 1.137(b) filed 23 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 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 is required.

Anthony Smith

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

13 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER, NH 03101-1151

In re Application of	:	
POTTHOFF, Klaus et al.	:	
U.S. Application No.: 10/490,610	:	DECISION ON
PCT No.: PCT/SE02/01773	:	
International Filing Date: 27 September 2002	:	PETITION
Priority Date: 27 September 2001	:	
Attorney's Docket No.: GOTALA P106US	:	UNDER 37 CFR 1.181
For: PUNCH	:	

This decision is in response to applicant's "Request For Correct Filing Date," filed on 04 August 2004. In effect, applicant asks the Office to vacate the Notification of Acceptance and issue a corrected Notification of Acceptance and Filing Receipt. The Request has been treated as a Petition Under 37 CFR 1.181.

BACKGROUND

On 27 September 2002, applicant filed international application PCT/SE02/01773, which claimed a priority date of 27 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB") on 03 April 2003. The deadline for entry into the national stage in the US was 27 March 2004.

On 24 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 and an unexecuted declaration.

On 03 June 2004, applicant submitted a declaration executed by the inventors.

On 24 June 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration submitted on 24 March 2004 was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 06 July 2004, applicant submitted "Response to the Notice of Missing Requirements," accompanied by a copy of the declaration, a transmittal letter and a statement that the declaration had been previously submitted on 03 June 2004. A date stamped postcard receipt was not included.

On 29 July 2004, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed giving the application a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 06 July 2004.

On 04 August 2004, applicants filed a petition requesting a corrected filing receipt.

DISCUSSION

The Notification of Acceptance mailed 29 July 2004, indicated that the declaration in compliance with 37 CFR 1.497(a)-(b) was received on 06 July 2004. A review of the file reveals that a declaration in compliance with 37 CFR 1.497(a)-(b) was originally received on 03 June 2004. As such, the completion date for the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) was 03 June 2004, not 06 July 2004.

Additionally, as the Office was in receipt of the declaration prior to the mailing of the Notification of Missing Requirements, the Notification of Missing Requirements should not have issued.

CONCLUSION

For the reasons discussed above, the Petition Under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 29 July 2004 is **VACATED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 24 June 2004 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The application has a date of 03 June 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAWRENCE CRUZ
CONAIR CORPORATION
ONE CUMMINGS POINT ROAD
STAMFORD, CT 06902

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MAY 12 2008

In re Application of	:	
Leandro RIZZUTO	:	
Application No. 10/490,619	:	DECISION ON PETITION
Filed: August 03, 2004	:	
Attorney Docket No. 1067/u	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 28, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of March 28, 2007, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3732 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

In re Application of	:	
Olaza Manso, et al.	:	
Application No. 10/490,634	:	DECISION ON PETITION
Filed: October 12, 2004	:	TO WITHDRAW
Attorney Docket No. 4565-0109PUS1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 2006.

The request is **APPROVED**.

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

The request was signed by Charles Gorenstein on behalf of all attorneys of record who are associated with customer No. 02292.

All attorneys/agents associated with the Customer Number 02292 have been withdrawn.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ERVELIO ELISEO
IRA EDIF 3 APTO 3 E/
2DA Y CARRETERA DE MALEZA
SANTA CLARA, VILLA CLARA
CUBA

cc: CENTRO DE BIOACTIVOS QUIMICOS
UNIVERSIDAD CENTRAL DE LAS VILLAS
CARRETERA DE CAMAJUANI KM 5 ½
SANTA CLARA, VILLA CLARA 50100
CUBA

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/490,634	10/12/2004	Ervelio Eliseo Olazabal Manso	4565-0109PUS1

CONFIRMATION NO. 8472

OC000000020650434

OC000000020650434

02292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Date Mailed: 09/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

MAILED

JUN 24 2010

OFFICE OF PETITIONS

In re Application	:
Kanji Inoue et al.	:
Application No. 10/490,644	: DECISION ON APPLICATION
Filed: March 25, 2004	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 042185	:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed February 12, 2010. Applicant requests that the determination of patent term adjustment be corrected from 997 to 1282 days, in part 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three 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 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 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 patent term adjustment relating to those provisions 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 such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d).

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

[1] For example, if applicants dispute 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 applicants 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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MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of

LAUTHER, et al.
Application No. 10/490,654
Filed: March 25,2004
Attorney Docket No. **449122072200**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

The request is **APPROVED.**

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

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

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

There is an outstanding Final Office action mailed October 30, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PETER DOSTERT**
GEIGENBERGERSTR. 25
MUNCHEN, GERMANY 81477

cc: **BELL BOYD & LLOYD, LLC**
70 W. MADISON STREET, SUITE 3100
CHICAGO, IL 60602-4207

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WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

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APR 09 2007

OFFICE OF PETITIONS

In re Patent No. 7070444	:	
Issued: 07/04/2006	:	
Application No. 10/490,668	:	ON PETITION
Filed: 08/17/2004	:	
Atty Docket No. SATO ET AL 3	:	
PCT	:	

This is a decision on the "REQUEST TO CORRECT THE NAME OF THE ASSIGNEE AFTER ISSUANCE OF THE PATENT UNDER 37 CFR 3.81(b)" filed on 14 December, 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 **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

0 9 NOV 2004

#4

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Joseph S Tripoli
THOMSON LICENSING INC
Patent Department
Post Office Box 5312
Princeton NJ 08543-5312

In re Application of	:	
DUFFIELD et al.	:	
Application No.: 10/490,679	:	DECISION
PCT No.: PCT/US01/30544	:	
Int. Filing Date: 28 September 2001	:	
Priority Date: None	:	
Attorney Docket No.: RCA90131	:	
For: SMARTCARD UART FOR MINIMIZING	:	
PROCESSOR DEMANDS IN A CONDITIONAL	:	
ACCESS SYSTEM	:	

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(a) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" filed 10 September 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 September 2001, applicants filed international application PCT/US01/30544, which designated the United States. 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 29 March 2004 (28 March 2004 being a Sunday).

On 24 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 May 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) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" which was accompanied by, *inter alia*, a declaration of inventors, the surcharge

under 37 CFR 1.492(e), a petition/fee for a two month extension of time, and a declaration of facts by Davida Fornarotto explaining the efforts made to obtain the signature of joint inventor Mr. M Narasimhan.

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. The declaration of Davida Fornarotto has been considered. However, it does not appear that an internet search for either "Mohan Narasimhan" or "M Narasimhan" has been conducted. The name does not appear to be a common one and an internet search may prove very useful with little additional effort.

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
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

31 JAN 2005

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In re Application of	:	
DUFFIELD et al.	:	
Application No.: 10/490,679	:	DECISION
PCT No.: PCT/US01/30544	:	
Int. Filing Date: 28 September 2001	:	
Priority Date: None	:	
Attorney Docket No.: RCA90131	:	
For: SMARTCARD UART FOR MINIMIZING	:	
PROCESSOR DEMANDS IN A CONDITIONAL	:	
ACCESS SYSTEM	:	

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" filed 06 January 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 September 2001, applicants filed international application PCT/US01/30544, which designated the United States. 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 29 March 2004 (28 March 2004 being a Sunday).

On 24 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 May 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) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR"

which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a two month extension of time, and a declaration of facts by Davida Fornarotto explaining the efforts made to obtain the signature of joint inventor Mr. M Narasimhan.

On 09 November 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that sufficient proof that the missing joint inventor could not be found or reached after diligent effort had not been provided.

On 06 January 2004, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR 1.47(a) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" which was accompanied by, *inter alia*, copies of printouts of search results from Anywho.com, switchboard.com, and google.com.

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 09 November 2004, items (1), (3) and (4) have been satisfied.

Item (2) has not been satisfied. The copies of printouts of search results from Anywho.com, switchboard.com, and google.com have been considered. However, while the printouts show that no listing was found for "Mohan Narasimhan", it is not clear from the printouts from Anywho.com and switchboard.com whether any listing or listings were found for "M Narasimhan". If any such listings were found, it might be reasonable to attempt to contact these persons, depending of course upon the number of listings found.

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.

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29 MAR 2005

#5

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Patent Department
Post Office Box 5312
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In re Application of	:	
DUFFIELD et al.	:	
Application No.: 10/490,679	:	DECISION
PCT No.: PCT/US01/30544	:	
Int. Filing Date: 28 September 2001	:	
Priority Date: None	:	
Attorney Docket No.: RCA90131	:	
For: SMARTCARD UART FOR MINIMIZING	:	
PROCESSOR DEMANDS IN A CONDITIONAL	:	
ACCESS SYSTEM	:	

This is a decision on applicants' "SECOND RENEWED PETITION UNDER 37 CFR 1.47(a) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" filed 14 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 September 2001, applicants filed international application PCT/US01/30544, which designated the United States. 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 29 March 2004 (28 March 2004 being a Sunday).

On 24 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 May 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) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR

1.492(e), a petition/fee for a two month extension of time, and a declaration of facts by Davida Fornarotto explaining the efforts made to obtain the signature of joint inventor Mr. M Narasimhan.

On 09 November 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that sufficient proof that the missing joint inventor could not be found or reached after diligent effort had not been provided.

On 06 January 2004, applicants submitted a "RENEWED PETITION UNDER 37 CFR 1.47(a) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" which was accompanied by, *inter alia*, copies of printouts of search results from Anywho.com, switchboard.com, and google.com.

On 31 January 2005, a decision was mailed dismissing applicants' renewed petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that sufficient proof that the missing joint inventor could not be found or reached after diligent effort still had not been provided.

On 14 March 2005, applicants submitted the instant "SECOND RENEWED PETITION UNDER 37 CFR 1.47(a) FOR ACCEPTANCE OF APPLICATION WITHOUT PARTICIPATION OF A JOINT INVENTOR" which was accompanied by, *inter alia*, copies of printouts of search results from Anywho.com, switchboard.com, and google.com.

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 09 November 2004, items (1), (3) and (4) have been satisfied.

Regarding item (2), applicants have now provided sufficient evidence to establish that the missing joint inventor cannot be reached after diligent effort.

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 September 2004**.

Daniel Stemmer
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PCT Legal Affairs
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07 NOV 2006

Allen W. Wark
Abbott Laboratories
D377/AP6A-1
100 Abbott Park Road
Abbott Park, IL 60064-6008

In re Application of	:	
LUPTON, Henry William	:	
Application No. 10/490,680	:	DECISION
PCT No.: PCT/GB02/04318	:	
Int. Filing Date: 24 September 2002	:	ON PETITION UNDER
Priority Date: 24 September 2001	:	
Attorney Docket No.: 6975.US.01	:	37 CFR 1.8
For: A DETECTABLE STENT AND	:	
METHOD OF MAKING SAME	:	

This is a decision on applicant's "Petition Under 37 CFR 1.181(a) to Withdraw Holding of Abandonment Based Upon Failure to Receive Office Action," filed on 07 August 2006.

BACKGROUND

On 24 September 2002, applicants filed international application no. PCT/GB02/04318, claiming a priority date of 24 September 2001. A copy of the international application was transmitted to the Office by the International Bureau on 03 April 2003. The deadline for payment of the basic national fee in the United States was 24 March 2004.

On 24 March 2004, applicants submitted a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 02 August 2004, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 12 July 2006, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 07 August 2006, applicants filed the instant petition indicating that applicants had timely responded to the Notification of Missing Requirements via facsimile on 28 February 2005, enclosing a copy of the 28 February 2005 response along with the facsimile confirmation.

DISCUSSION

Applicants claim to have responded to the Notification of Missing Requirements on 28 February 2005, but the facsimile transmission is not present in the file. However, 37 CFR 1.8(b) states, in part:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in

> the Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Items (1), (2) and (3) have been satisfied. Applicants filed the petition promptly after the mailing of the Notification of Abandonment. Applicants supplied a copy of the declaration and the cover letter with the certificate of facsimile transmission. The petition is filed by the person who earlier signed the certificate of facsimile transmission and the submission is accompanied by a facsimile confirmation.

The fee for the five month extension of time and the fee for late furnishing of the oath or declaration will be charged to deposit account no. 01-0025, as authorized.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.8 to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 July 2006 is **VACATED**.

This application is being forwarded to the National Phase Processing Branch of the Office of PCT Operations for further action consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 August 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Mail Date: 04/21/2010

Applicant	: Marcus Kotulla	: DECISION ON REQUEST FOR
Patent Number	: 7637513	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/490,695	: 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 **976** 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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COLEMAN SUDOL SAPONE, P.C.
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BRIDGE PORT CT 06605-1601

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JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Toshihide Ito et al.	:	
Application No. 10/490,713	:	ON PETITION
Filed: March 25, 2004	:	
Attorney Docket No. U06-048	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a response to the non-final Office action mailed April 3, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on July 4, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 3746 for appropriate action on the amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 30 2006

Mark D. Moore, Ph.D
Agent for Applicants
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas TX 75202-3789

In re Application of	:
Elliott et al.	:
Serial No.: 10/490,717	: PETITION DECISION
Filed: March 25, 2004	:
Attorney Docket No.: 36697.10	:

This is in response to the petition under 37 CFR § 1.59(b), filed December 13, 2005, to expunge information from the above identified application.

Petitioner requests that the Proprietary Information Disclosure Statement, filed September 9, 2005, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, applicants' petition is GRANTED.

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

Bruce Kisliuk
Director, Technology Center 1600

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NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of:	:	
Imamoto et al.	:	
Application No. 10/490,723	:	DECISION ON
Filed: March 24, 2004	:	PETITION
Attorney Docket Number: NL010671	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed December 14, 2005. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed February 15, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned May 16, 2005. A Notice of Abandonment was mailed September 7, 2005.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being referred to Technology Center 1756 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

17 AUG 2004

#4

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

In re Application of ZUBKOVA et al	:	
U.S. Application No.: 10/490,728	:	
PCT Application No.: PCT/RU01/00293	:	
Int. Filing Date: 16 July 2001	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: 7095IL-1	:	
For: FLAME RETARDANT FOR POLYMERIC MATERIALS	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Pursuant to 37 C.F.R. § 1.137(b)" filed 24 March 2004.

BACKGROUND

On 16 July 2001, applicant filed international application PCT/RU01/00293. A copy of the international application was communicated to the USPTO from the International Bureau on 30 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 16 January 2004.

International application PCT/RU01/00293 became abandoned as to the United States for failure to timely pay the basic national fee.

On 24 March 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 reply under 35 U.S.C. 371.

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

With regard to item (3), the petition states, "The 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 was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 16 July 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 24 March 2004.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Nakayama, et al.	:	
Application No. 10/490,733	:	ON PETITION
Filed: April 8, 2004	:	
Attorney Docket No. 250566US3PCT	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 20, 2007.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 16, 2004. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on February 17, 2005. A Notice of Abandonment was mailed on March 22, 2005.

Petitioner states that he never received the Notice of Allowance because it was mailed to the wrong address. Petitioner points out that the Notice was mailed to the address associated with Customer Number 28850. However, petitioner states that the Notice should have been mailed to the address associated with Customer Number 22850.

A review of the application reveals that the application transmittal letter specified that correspondence should be addressed to Customer Number 28850. However, the declaration indicated that correspondence should be directed to Customer Number 22850.

MPEP 403 states:

> Where more than one correspondence address is specified, the Office will select one of the correspondence addresses for use as the correspondence address. This is intended to cover, for example, the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The Office will select which of the multiple correspondence addresses to use according to the following order: (A) application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney.

Here, as applicants specified one Customer Number in the transmittal letter and another Customer Number in the oath or declaration, it was proper for the Office to use the Customer Number from the transmittal letter - Customer Number 28850.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; 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.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Nakayama, et al.	:	
Application No. 10/490,733	:	ON PETITION
Filed: April 8, 2004	:	
Attorney Docket No. 250566US3PCT	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 7, 2007.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 16, 2004. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on February 17, 2005. A Notice of Abandonment was mailed on March 22, 2005. Applicant filed a petition to withdraw the holding of abandonment on March 20, 2007. However, the petition was dismissed in a decision mailed on July 13, 2007.

Petitioner states that he never received the Notice of Allowance because it was mailed to the wrong address. Petitioner points out that the Notice was mailed to the address associated with Customer Number 28850. However, petitioner states that the Notice should have been mailed to the address associated with Customer Number 22850. Petitioner brings the Office's attention to the fact that the ADS set forth Customer Number 22850, and as such, the Office should have used that address, rather than Customer Number 28850 as set forth on the application transmittal letter.

MPEP 403 states:

> Where more than one correspondence address is specified, the Office will select one of the correspondence addresses for use as the correspondence address. This is intended to cover, for example, the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The Office will select which of the multiple correspondence addresses to use according to the following order: (A) application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney.

In view thereof, the petition is granted.

The matter is being forwarded to Group Art Unit 1725 for re-mailing of the November 16, 2004 Notice of Allowance, setting a new period for reply, to the above address of record.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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JJGJR.: 04-06

Paper No:__

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OFFICE OF PETITIONS

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

In re Application of	:	
Nakayama, et al.	:	DECISION
Application No. 10/490,739	:	
Filing Date: 8 April, 2004	:	
Attorney Docket No.: 250573US-3 PCT	:	

This is a decision on the petition filed on 3 March, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

NOTE: **Docketing of Status Inquiries at three- (3-) month intervals following the filing of papers/replies may be prudent practice to demonstrate diligence when lengthy delays occur in matters such as this.**

Moreover, monitoring of the status of one's applications on Private PAIR will inform one's management of application responses and provide one an indication when mailings of Office actions should be expected.

The Office thanks Petitioner for bringing to its attention the error in the addressing of the Office action, and the Notice submitted by Petitioner is acknowledged and made of record.

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

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the Notices of Allowance and Allowability and Fees Due mailed on 15 September, 2005, with reply due under a non-extendable deadline on or before 15 December, 2005;
- the application went abandoned after midnight 15 December, 2005;
- the Office mailed the Notice of Abandonment on 23 January, 2006;
- on 3 March, 2006, Petitioner filed the instant petition, averring therein that the Notices in question had been mailed to an incorrect address, with copies of those papers submitted in support of the averment.

The record reflects the accuracy of Petitioner's averments.

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

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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).

a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

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]

It appears that Petitioner has satisfied the requirements of the regulation and the case law as discussed 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 hereby is **granted**, fees are waived and none have been charged; and the Notice of Abandonment of 23 January, 2006, hereby is **vacated**. (Copies of some papers, previously mailed incorrectly, are enclosed for Petitioner's reference.)

The instant matter is released to Technology Center 1700 to remail the Notice of Allowance and Fees Due and the Notice of Allowability, consistent with this decision, in due course.

---

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

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

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

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: Notice of Acceptance (13 August, 2004)
Notice of Allowance/Allowability (15 September, 2005)
Notice of Abandonment (23 January, 2006)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/490,739	Isamu Nakayama	250573US3PCT

INTERNATIONAL APPLICATION NO.
PCT/JP03/09384

I.A. FILING DATE	PRIORITY DATE
07/24/2003	08/12/2002

28850
RON WARREN & SCOTT SOFINOWSKI
15800 YEOHO RD.
SPARKS, MD 21152

CONFIRMATION NO. 3647
371 ACCEPTANCE LETTER

OC000000013514678

Date Mailed: 08/13/2004

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

04/08/2004	04/08/2004
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 04/08/2004
- English Translation of the IA filed on 04/08/2004
- Copy of the International Search Report filed on 04/08/2004
- Preliminary Amendments filed on 04/08/2004
- Information Disclosure Statements filed on 04/08/2004
- Oath or Declaration filed on 04/08/2004
- Request for Immediate Examination filed on 04/08/2004
- U.S. Basic National Fees filed on 04/08/2004
- Power of Attorney filed on 04/08/2004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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NOTICE OF ALLOWANCE AND FEE(S) DUE

28850 7590 09/15/2005

RON WARREN & SCOTT SOFINOWSKI
15800 YEOHO RD.
SPARKS, MD 21152

EXAMINER
TRAN, LEN

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 09/15/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/490,739	04/08/2004	Isamu Nakayama	250573US3PCT	3647

TITLE OF INVENTION: DUAL ROLL CASTING MACHINE AND METHOD OF OPERATING THE CASTING MACHINE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	12/15/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

28850 7590 09/15/2005

RON WARREN & SCOTT SOFINOWSKI
15800 YEOHO RD.
SPARKS, MD 21152

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/490,739	04/08/2004	Isamu Nakayama	250573US3PCT	3647

TITLE OF INVENTION: DUAL ROLL CASTING MACHINE AND METHOD OF OPERATING THE CASTING MACHINE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	12/15/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
TRAN, LEN	1725	164-428000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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 to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/490,739	04/08/2004	Isamu Nakayama	250573US3PCT	3647

28850 7590 09/15/2005

RON WARREN & SCOTT SOFINOWSKI
15800 YEOHO RD.
SPARKS, MD 21152

EXAMINER
TRAN, LEN

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 09/15/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 99 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 99 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)
	10/490,739	NAKAYAMA ET AL.
	Examiner	Art Unit
	Len Tran	1725

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/8/04.

2. ☒ The allowed claim(s) is/are 11-22.

3. ☒ The drawings filed on 08 April 2004 are accepted by the Examiner.

4. ☒ 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 the:
      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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 11-24, drawn to a twin roll casting machine, classified in class 164, subclass 428.

   II. Claims 25 and 26, drawn to a method, classified in class 164, subclass 480.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method can be used with continuous casting mold instead of twin roll.

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species of the claimed invention:

Group I. Ia. Claims 11-22 pertains to swing wall sealing members.

Ib. Claims 23-24 pertains to actuators to move chilled roll sealing members.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive 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).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. ***During a telephone conversation with Mr. Surinder Sachar on June 6, 2005 a provisional election was made with traverse to prosecute the invention of group Ia, claims 11-***

22. Claims 23-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Surinder Sachar on June 8, 2005.

The application has been amended as follows:

Claims 23-26 are canceled per the oral election on June 6th, 2005.

Claims 11-22 are allowed.

8. The following is an examiner's statement of reasons for allowance:

The prior arts of record fail to teach a combination of a first swing wall arranged in the enclosure adjacent to a downstream side of the chilled rolls and movable toward and away from the surface of the strip, a first sealing roll rotatably supported by a tip end of the first swing wall in parallel with the chilled rolls, a second swing wall , a second sealing roll rotatably supported by a tip end of the second swing wall in parallel with the chilled rolls, swing wall sealing members sealingly arranged by a tip end of the second swing wall in parallel with the chilled rolls. The prior arts of record further fail to teach or suggest a third swing wall within the enclosure above the table rolls adjacent to an upstream side of the pinch rolls and movable toward and away from an upper surface of the strip, a third sealing roll rotatably supported by a tip end of the third swing wall in parallel with the chilled rolls, and a swing wall sealing member sealingly arranged between a wall of the enclosure and a peripheral edge of the third swing wall.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Len Tran whose telephone number is (571) 272-1184. The examiner can normally be reached on M-F, 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (571) 272-1171. 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).

Len Tran
Examiner
Art Unit 1725

June 8, 2005

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/490,739	04/08/2004	Isamu Nakayama	250573US3PCT	3647

28850 7590 01/23/2006

RON WARREN & SCOTT SOFINOWSKI
15800 YEOHO RD.
SPARKS, MD 21152

EXAMINER
TRAN, LEN

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 01/23/2006

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/490,739	Nakayama	
	Examiner	Art Unit	
	TRAN	1725	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

slk

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/490,739	04/08/2004	Isamu Nakayama	250573US3PCT	3647

28850 7590 01/23/2006

RON WARREN & SCOTT SOFINOWSKI
15800 YEOHO RD.
SPARKS, MD 21152

EXAMINER
TRAN, LEN

ART UNIT	PAPER NUMBER
1725	

DATE MAILED: 01/23/2006

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/490,739	Nakayama	
	Examiner	Art Unit	
	TRAN	1725	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

slk

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.

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DEC 28 2006

Group 3700

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

In re Application of:
NAKAYAMA, ISAMU et al
Serial No.: 10/490,740
Filed: April 8, 2004
Docket: 250570US3PCT
Title: LUBRICANT MIST SPRAYER FOR PINCH ROLL

DECISION ON PETITION TO RETURN INITIALED IDS FORM 1449

This is a decision on the petition filed on Mar. 20, 2006 to request the examiner to properly consider the references cited and initial the IDS Form 1449.

The petition is **DISMISSED as moot**.

In the petition the applicant requested to have the above application forwarded to Examiner Dinh Q. Nguyen (Art Unit 3752) so that the Examiner may acknowledge consideration of the references cited on the Information Disclosure Statement filed on Feb. 13, 2006. The examiner is also requested to initial each of the items listed on the Form PTO 1449 in accordance with U.S. patent practice and procedure. On April 25, 2006, the examiner has already completed the task.

In view of the history, the relief the applicant requested, namely the return of a copy of initialed IDS Form 1449, has already occurred. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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

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OCT 18 2005

OFFICE OF PETITIONS

Applicant: Suzuki et al.
Appl. No.: 10/490,741
International Filing Date: August 7, 2003
Title: NOVEL TRIARYLAMINE POLYMER, PROCESS FOR PRODUCING THE SAME, AND USE THEREOF
Attorney Docket No.: 251315US0PCT
Pub. No.: US 2004/0262574 A1
Pub. Date: December 30, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on February 28, 2005, for the above-identified application.

The request is granted.

With respect to the error labeled "B," the square bracket will be placed inside the "N", as shown in the claim.

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

It would greatly benefit the Office if applicant did not provide a copy of the application as filed and a copy of the preliminary amendment previously filed with the request for a corrected publication, as the Office already has a copy in the application file and it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request. If it is not clear why the error is a material error, further explanation may be warranted.

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

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

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K & L Gates, LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Jorg Feeser	:	
Application No. 10/490,752	:	DECISION ON PETITION
Filed: July 12, 2004	:	TO WITHDRAW
Attorney Docket No. A0008/7014	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 2006.

The request is **moot because a revocation of power of attorney has been previously filed.**

A review of the file record indicates that the power of attorney to Arthur Z. Bookstein and all attorneys/agents of record has been revoked by the assignee of the patent application on June 21, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Proskauer Rose, LLP
1001 Pennsylvania Avenue, N.W.
Suite 400 South
Washington, DC 20004

01 MAR 2005

#3

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John P. White
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
MAHAJAN, et al	:	
U.S. Application No.: 10/490,757	:	DECISION ON PETITION
Filing Date: 24 March 2004	:	
Attorney's Docket No.: 72183/JPW/KBC	:	UNDER 37 CFR 1.28(c)
For: SELECTIVE HYDROGENATION OF	:	
NITROGEN CONTAINING AROMATICS	:	

This decision is in response to applicant's "Communication in Accordance With 37 C.F.R. §1.28(c)" filed 04 October 2004 in the United States Patent and Trademark Office (USPTO).

On 24 December 2003, applicant filed international application PCT/IB03/06185.

On 24 March 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the small entity basic national fee as required by 35 U.S.C. 371(c)(1) and an unsigned combined declaration and power of attorney.

On 04 October 2004, applicant filed the present communication regarding an error in claiming small entity status in the 24 March 2004 filing.

A review of applicant's present filing finds that applicant has provided payment of the deficient amount accompanied by an itemization of the error and a statement that the earlier claiming of small entity status was in good faith. As such, applicant has satisfied the provisions of 37 CFR 1.28(c). Applicant's petition under 37 CFR 1.28(c) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision and the mailing of a Notification of Missing Requirements (PCT/DO/EO/905) regarding the need for applicant to furnish an executed oath or declaration of the inventors.

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

29 JUN 2004

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

In re Application of NEDELJKOVIC et al	:	
U.S. Application No.: 10/490,758	:	
PCT Application No.: PCT/YU01/00019	:	DECISION
Int. Filing Date: 03 August 2001	:	
Priority Date Claimed: 11 July 2001	:	
Attorney Docket No.: 67,177-001	:	
For: DEVICE FOR NEUTRALIZING ELECTROMAGNETIC RADIATION	:	

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 24 March 2004.

BACKGROUND

On 03 August 2001, applicant filed international application PCT/YU01/00019, which claimed priority of an earlier Serbia and Montenegro application filed 11 July 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 23 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 January 2004.

International application PCT/YU01/00019 became abandoned as to the United States for failure to timely pay the basic national fee.

On 24 March 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 reply under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 03 August 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 24 March 2004.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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#3

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Mark T. Starr
UNISYS CORPORATION
Unisys Way
Blue Bell, PA 19424

In re Application of
CORNELL, David *et al*
U.S. Application No.: 10/490,765
PCT No.: PCT/AU01/01134
Int. Filing Date: 10 September 2001
Priority Date: None
Attorney Docket No.: 041-522-L/09/600,000
For: APPLICATIONS WITH MINIMUM DOWN TIME

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

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed on 25 March 2004 is hereby **GRANTED** as follows:

The basic national fee and petition fee of $1,330.00 have been charged to Deposit Account No. 19-3790 as authorized. Applicants statement that "[t]his U.S national-phase application became abandoned for failure to enter the national-phase of the above-identified International Application by the thirty-month deadline of March 10, 2004. Such failure to enter the national-phase of the above-identified International Application by the thirty-month deadline was unintentional" has been interpreted to meet 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 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

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11 FEB 2008

27276
UNISYS CORPORATION
Unisys Way
Mail Stop E8-114
Blue Bell, PA 19424

In re Application of CORNELL, David *et al* U.S. Application No.: 10/490,765 PCT No.: PCT/AU01/01134 Int. Filing Date: 10 September 2001 Priority Date: None Attorney Docket No.: 041-522-L/09/600,000 For: APPLICATIONS WITH MINIMUM DOWN TIME	**DECISION**

This decision is in response to applicants' request for a corrected filing receipt filed via facsimile on 22 March 2006 which is hereby **DISMISSED** as follows:

Applicants request that the "Filing or 371(c) Date" for the subject application be amended to 25 March 2004. A review of the subject application shows that applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) in the above-captioned application on 21 March 2005.

Section 1893.03(b) of the MPEP explains that the filing date of the international stage application is also the filing date for the national stage application and states, in part:

> The "Application Filing Date" field formerly displayed in PAIR was changed to "Filing or 371 (c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date . . .

As such, the "Filing or 371(c) Date" of "03/21/2005" recorded on the Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 14 June 2005 is correct.

10/490,765

The application will then be forwarded to Technology Center 2100 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

01 FEB 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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George W. Neuner
EDWARDS & ANGELL
P.O. Box 55874
Boston, MA 02205

In re Application of: HENTSCHEL, Bertram, et al.	:	
U.S. Application No.: 10/490,774	:	
PCT Application No.: PCT/DE02/03555	:	
Int'l Filing Date: 21 September 2002	:	DECISION
Priority Date: 27 September 2001	:	
Attorney's Docket No.: 60887 (71980)	:	
For: METHOD FOR MILLING CASTING MOULDS	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 31 January 2005, which seeks correction of the "Filing or 371(c) Date" from 09 July 2004 to 24 March 2004. No petition fee is required.

BACKGROUND

On 24 March 2004, applicant initiated the present national stage application by submitting, among other materials, a transmittal letter seeking entry into the U.S. national stage for PCT/DE02/03555, and payment of the basic national fee.

On 09 July 2004, applicant filed a "Notice Of Filing Missing Requirements" accompanied by an executed inventor's declaration.

On 22 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied as of 09 July 2004. On the same date, a filing receipt was issued identifying the "Filing Or 371(c) Date" as 09 July 2004.

On 31 January 2005, applicants filed the "Request For Corrected Filing Receipt" considered herein. The request seeks to have the "Filing Or 371(c) Date" identified on the filing receipt changed to 24 March 2004.

DISCUSSION

The present request seeks to correct the "Filing Or 371(c) Date" from 09 July 2004, the date on which applicant filed the declaration satisfying the requirement of 35 U.S.C. 371(c)(4), to 24 March 2004, the date on which applicants initiated the present national stage application. However, the proper "Filing Or 371(c) Date" for a U.S. national stage application is the date on which the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) are all satisfied, not the date on which the national stage is initiated. **See** MPEP § 1893.03(b).

Accordingly, the 09 July 2004 "Filing Or 371(c) Date" set forth on the filing receipt issued herein is proper.

CONCLUSION

Based on the above, the "Request For Corrected Filing Receipt" filed 31 January 2005 is **DISMISSED** without prejudice.

The "Filing Or 371(c) Date" for the present application remains 09 July 2004, the date on which applicant filed the declaration satisfying the requirement of 35 U.S.C. 371(c)(4).

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

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NOV - 8 2006

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE
SUITE 1200
ATLANTA GA 30361

In re Application of	:
Cowley et al.	:
Serial No.: 10/490,776	: PETITION DECISION
Filed: March 24, 2004	:
Attorney Docket No.: AI-7469US	:

This is in response to the petition filed September 19, 2006, requesting review of the Office action of July 5, 2006. It should be noted that this petition was not filed under M.P.E.P. 1.181.

BACKGROUND

A review of the file history shows that the examiner mailed a restriction requirement on June 9, 2006. However, the restriction was made on the original claims and not on the claims submitted in the preliminary amendment. As a result of this error, the examiner mailed a second restriction requirement on the correct pending claims on July 5, 2006. This requirement divided the claims into Group I and Group II and required an election of species.

Applicants filed a response on August 7, 2006 and elected group I with traverse. Applicants' attorney had a telephonic interview with the examiner and the examiner's supervisor on September 14, 2006 wherein the examiner invited "Applicants to submit a signed document admitting on the record that the two invention were obvious variation of each other if they wished to have these inventions examined together. A reference that anticipates or renders obvious one invention would then anticipate or render obvious the other."

In response thereto, applicants filed this petition for review of the Office action.

DISCUSSION

MPEP 818.03(c) and 37 CFR § 1.144 state that after a final requirement for restriction, the applicant may petition the Commissioner to review the requirement. In this case, the requirement for restriction has not been made final. The first restriction mailed June 9, 2006 was

made on the wrong set of claims. A second restriction was mailed on July 5, 2006 withdrawing the restriction of June 9, 2006. This second restriction was not made final.

DECISION

Applicants' petition is DISMISSED as premature.

This application will be sent back to the examiner for prosecution on the merits of applicants' response of August 7, 2006.

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 M. Kisliuk
Director, Technology Center 1600

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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE
SUITE 1200
ATLANTA, GA 30361

In re Application of	:
Cowley et al.	:
Serial No.: 10/490,776	: PETITION DECISION
Filed: March 24, 2004	:
Attorney Docket No.: AI-7469US	:

This is in response to the petition under 37 CFR 1.144, filed July 23, 2007, requesting review of the "restriction requirement" set forth in the Office Action mailed on June 9, 2006, and maintained in the Office Action mailed May 23, 2007.

BACKGROUND

A review of the file history shows that on June 9, 2006, the examiner mailed a holding of lack of unity of invention requirement, dividing the claims into three Groups. The examiner indicated that the inventions listed in Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1. However, the holding of lack of unity of invention requirement was made on the original claims and not the claims submitted in the preliminary amendment. As a result of this error, the examiner mailed a second holding of lack of unity of invention requirement on the correct pending claims on July 5, 2006. This requirement divided the claims into Group I and group II and required an election of species.

Applicants filed a response on August 7, 2006 and elected Group I with traverse. Applicants' attorney had a telephonic interview with the examiner and the examiner's supervisor on September 14, 2006, wherein the examiner invited "Applicants to submit assigned document admitting on the record that two inventions were obvious variation of each other if they wished to have these inventions examined together. A reference that anticipates or makes obvious one invention would then anticipate or render obvious the other."

In response thereto, applicants filed a petition on September 19, 2006 to review the "restriction requirement" of July 5, 2006.

A petition decision was mailed on November 8, 2006, dismissing applicants' petition as being premature. Applicants were informed, that MPEP 818.03 (C) and 37 CFR 1.144 state that after a final requirement for "restriction", applicants may petition the Commissioner to review the requirement. At that point, the holding of lack of unity had not been made final. The first holding of lack of unity mailed June 9, 2006 was made on the wrong set of claims. The second holding of lack of unity was mailed on July 5, 2006 withdrawing the holding of lack of unity of June 9, 2006 and was properly not made final.

The examiner mailed a non-final Office Action on May 23, 2007 responding to applicants' argument regarding the "restriction requirement" and making the "restriction" final. The examiner also rejected claims 1-47 and 100-104 under 35 U.S.C. 112, first paragraph, rejected claims 1-47 and 100-104 under 112 second paragraph, rejected claims 1-47 and 100-104 under 35 U.S.C. 103 (a) and rejected claims 1-47 and 100-104 on the ground of nonstatutory obviousness-type double patenting.

In response thereto, applicants filed this petition to review the "restriction" set forth in the Office Action mailed on June 9, 2006 and maintained in the office action mailed May 23, 2007.

Discussion

Applicants in their remarks argue that the examiner has restricted the same generic claims into two groups, not based on the active agent to be administered, either PYY or a PYY agonist, but on intended effect. Applicants continue the arguments by saying that there is no difference in method steps between the alleged groups as defined by the independent claims. There is no difference in groups to be searched based on the improper "restriction". The claims must be searched for the same elements. The intended effect of the method steps, decreasing the calorie or food intake or increasing energy expenditure, does not impart patentability. These arguments are not well taken. The examiner has indicated that Group I and II correspond to different results: increase in exercise and decrease in food intake, and are therefore unrelated. The examiner also indicated that the requirement of unity of invention is not fulfilled because there is no technical relationship among these inventions involving one or more of the same or corresponding special technical features. The examiner further explained that the expression "special technical features" means those technical features that define a contribution, which each of the claimed inventions, considered as a whole, makes over the prior art. Applicants argue that the special technical feature is administering PYY or PYY agonist. To counter this, the examiner provided a reference establishing that administering PYY is known in the art and therefore, does not constitute a "special technical feature" which is a contribution over the art. Accordingly, a holding of lack of unity of invention is considered to be proper.

DECISION

The petition is **DENIED.**

Should there be any questions about this decision please contact Marianne 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 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Michael Cowley, et. al.	:	
Application No. 10/490,776	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. 37-78	:	

This is a decision on the petition filed September 5, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that an incorrect name of the assignee was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Imperial Innovations Limited (London, United Kingdom) and Oregon Health and Science University (Portland, Oregon).

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

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

A review of Office database assignment records reflects that an assignment to Imperial Innovations Limited (London, United Kingdom) and Oregon Health and Science University (Portland, Oregon) has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Imperial Innovations Limited (London, United Kingdom) and Oregon Health and Science University (Portland, Oregon) was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Imperial Innovations Limited (London, United Kingdom) and Oregon Health and Science University (Portland, Oregon), as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/7/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/490,785 No.: 7,579,462---

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

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch
703 756-1572

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

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BIOGEN IDEC / FINNEGAN HENDERSON, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED
MAR 10 2010

In re Patent No. 7,579,462	:
Zhang et al.	: DECISION ON REQUEST FOR
Issue Date: August 25, 2009	: RECONSIDERATION OF
Application No. 10/490,785	: PATENT TERM ADJUSTMENT
Filed: March 21, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 23983-	: TO ISSUE CERTIFICATE OF
706.831	: CORRECTION
Title: PROCESS FOR PREPARING	:
17-ALLYL AMINO GELDANAMYCIN	:
(17-AAG) AND OTHER ANSAMYCINS	:

This is a decision on the petition filed on October 16, 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 seventy-six (1076) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand seventy-six (1076) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand seventy-six (1076) days.

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

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,579,462 B2

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Zhang 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 417 days

Delete the phrase "by 417 days" and insert – by 1076 days--

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

07 DEC 2005

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Alexandria, VA 22313-1450
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Dahna S. Pasternak
Robins & Pasternak, LLP
1731 Embarcadero Road, Suite 230
Palo Alto, CA 94303

In re Application of	:	
WOLFEE, et al.	:	
U.S. Application No.: 10/490,787	:	DECISION ON PETITIONS
PCT No.: PCT/US02/30413	:	
Int. Filing Date: 24 September 2002	:	UNDER 37 CFR 1.181
Priority Date: 24 September 2001	:	
Attorney Docket No.:8325-0027 (S27-US1)	:	
For: MODULATION OF STEM CELLS USING ZINC FINGER PROTEINS	:	

This decision is in response to applicant's unsigned correspondence filed 28 November 2005 in the United States Patent and Trademark Office (USPTO) providing copies of a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fee is required. Applicant is advised that in the future in order to be considered all correspondence with the USPTO should be signed pursuant to 37 CFR 1.3.

BACKGROUND

On 20 June 2005, applicant was mailed a Communication and notification of abandonment. Applicant was advised to file either a petition to revive pursuant to 37 CFR 1.137 or a petition to withdraw the holding of abandonment if the Form PCT/DO/EO/905 referenced in the Communication had not been received.

On 14 September 2005, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909).

On 28 November 2005, applicant filed the present facsimile correspondence including a stamped return postcard and copies of a petition to withdraw the holding of abandonment filed 03 August 2005.

DISCUSSION

I. Petition Under 37 CFR 1.181 to Accept Copies of Papers Originally Filed 03 August 2005

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. Applicant has provided a legible copy of a return receipt postcard which shows a USPTO date stamp, "JC04

Rec'd PCT/PTO 03 AUG 2005" and clearly identifies in part: "Communication and Petition to Withdraw The Holding of Abandonment Pursuant to 37 C.F.R § 1.181" as well as listing the inventor, serial number, title and attorney docket number. The evidence is sufficient to establish that the petition was received in the USPTO on 03 August 2005. Applicant has certified that the presently filed copies of the documents are true and complete copies of the papers originally filed on 08 August 2002. As such, it is proper to **GRANT** applicant's petition at this time to accept the copy of the petition under 37 CFR 1.181 filed 28 November 2005 as having been filed on 03 August 2005.

II. Petition Under 37 CFR 1.181 to Withdraw The Holding of Abandonment

As detailed in the Manual of Patent Examination Procedure at 711.03 (c) and Official Gazette notice 1156 OG 53, a petition under 37 CFR 1.181 requesting relief based upon non-receipt of an office action must be accompanied by:

> 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.

Applicant has submitted a page of the firm's docket record; however, this appears to be a docket record for only the present application. In order to show that the Form PCT/Do/EO/905 mailed 19 May 2004 was not received applicant is required to provide the docket record for the entire firm for the time period in which the paper would have been docketed. This is to ensure that the notice was not received and inadvertently docketed and filed in another application. Therefore, applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment is dismissed.

III. Non-Compliance of the Filed Declaration

Applicant states that the declaration filed 20 April 2005 is proper as the address and citizenship for Elizabeth Wolffe, the legal administrator to the deceased inventor, Alan Wolffe, is clearly listed beneath her name and signature. While this is true, applicant is reminded that pursuant to 37 CFR 1.497(a)-(b) this information must be provided for both the deceased inventor and the signing legal representative. 37 CFR 1.497(a)(3) states that a filed declaration must identify each inventor and the country of citizenship of each inventor. Applicant has presently stated that the residence, citizenship and post office information on the filed declaration is that of the legal representative. Thus, while the deceased inventor is listed on the filed declaration, his citizenship is not and the declaration therefore is not in compliance with 37 CFR 1.497(a)(3).

CONCLUSION

Applicant's petition under 37 CFR 1.181 as to the filing of 03 August 2005 is **GRANTED**.

Applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED without prejudice**.

This application remains abandoned as to the United States of America.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181."

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

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

16 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Dahna S. Pasternak
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1731 Embarcadero Road, Suite 230
Palo Alto, CA 94303

In re Application of	:	
WOLFEE, et al.	:	
U.S. Application No.: 10/490,787	:	DECISION ON PETITION
PCT No.: PCT/US02/30413	:	
Int. Filing Date: 24 September 2002	:	UNDER 37 CFR 1.181
Priority Date: 24 September 2001	:	
Attorney Docket No.:8325-0027 (S27-US1)	:	
For: MODULATION OF STEM CELLS USING ZINC FINGER PROTEINS	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.181" filed 25 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 December 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present U.S. National stage application. Applicant was afforded two months to file any request for reconsideration.

On 25 January 2006, applicant filed the present renewed petition.

DISCUSSION

As detailed in the Manual of Patent Examination Procedure at 711.03 (c) and Official Gazette notice 1156 OG 53, a petition under 37 CFR 1.181 requesting relief based upon non-receipt of an office action must be accompanied by:

> 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.

Applicant has presently provided an explanation as to the search of the firm's docketing system and the relevant pages from the docket record thus satisfying the remaining issue listed in the decision mailed 07 December 2005. Thus, it is proper to grant applicant's petition at this time

to withdraw the holding of abandonment as applicant has provided sufficient proof to show that the From PCT/DO/EO/905 mailed 19 May 2004 was never received.

CONCLUSION

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

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 14 September 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a new "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is still required.

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

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FEB 0 6 2009

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Dahna S. Pasternak
ROBINS & PASTERNAK LLP
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Palo Alto, CA 94303

In re Application of	:
WOLFFE et al.	:Decision on Petition
Serial No.: 10/490,787	:
Filed : 31 May 2006	:
Attorney Docket No.: 8325-0027	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 09 June 2008 requesting reconsideration of the lack of unity requirement mailed 12 December 2007. Regrettably, the petition was not brought to the deciding official's attention until 17 November 2008, resulting in delay in acting upon this petition.

BACKGROUND

This application was filed as a national stage of a PCT application and as such is entitled to PCT unity of invention rules.

On 12 December 2007, the examiner set forth a lack of unity requirement which divided the claims 1-19 into 5 groups as follows:

> Group I, claims 1-13, drawn to a method of altering the state of differentiation in a cell or population of cells comprising administering one or more zinc finger protein (ZFPs) to said cell or population of cells, wherein a polynucleotide encoding the ZFP is administered.
>
> Group II, claims 1-12 and 14, drawn to a method of altering the state of differentiation in a cell or population of cells comprising administering one or more zinc finger protein (ZFPs) to said cell or population of cells, wherein a ZFP polypeptide is administered.
>
> Group III, claims 15, drawn to a composition comprising multipotent stem cells produced by the method of claim 1.

Group IV, claims 16, drawn to a composition comprising a population of cells of altered lineage produced by the method of claim 1.

Group V, claim(s) 17-19, drawn to a method for screening an agent which effect differentiation by administering the agent to the composition of claim 15.

On 26 December 2007, applicants elected Group I, claims 1-13, with traverse.

On 19 March 2008, the examiner considered the traversal and made the lack of unity determination FINAL. Claims 14-19 were withdrawn from examination. Claims 1-13 were rejected under 35 USC 112, 2nd paragraph for indefiniteness. Claims 1-13 were rejected under 35 USC 112, 1st paragraph for scope of enablement. Claim 1, 3-6, and 10-13 were rejected under 35 USC 102(a) as being anticipated by Lamar et al. Claims 1, 2, 4-6, and 10-13 were rejected under 35 USC 102(b) as being anticipated by Nakayama et al.

On 09 June 2008, applicants filed a response to the Office action and this petition.

DISCUSSION

The file history and petition have been considered carefully.

PCT Rule 13.2 states that:

> **Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.**

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

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

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

Applicants correctly argue that the subject application is a National Phase filing of PCT/US02/30413, filed in compliance with 35 USC 371, and thus questions of unity must be resolved using the criteria of PCT Rule 13. Referring to PCT Rule 13.2 and 37 CFR 1.475(a), applicants urge that the special technical feature must define a feature that makes a contribution, as a whole, over the prior art. Applicants refer to MPEP 1893.03(d) as indicating that unity of invention rather than restriction practice is applicable in national stage applications.

Applicants review that their original traversal of the lack of unity was on the basis that the special technical feature common to all claims was the requirement that the zinc finger protein be engineered. Referring to p. 10 of the instant specification, applicants argue that an "engineered ZFP" is defined as a non-naturally occurring ZFP that has been either designed and/or selected. Applicants point to Example 2 as an exemplified engineered ZFP. Applicants urge that the engineered ZFPs of the claims are necessarily not naturally occurring, and thus are distinct from the allegedly naturally occurring ZFPs of de Luis et al. and Shie et al., cited by the examiner in the lack of unity requirement as evidence that engineered ZFPs were known in the prior art to alter the differentiation state of a cell. Applicants review that the examiner did not find this argument persuasive, reasoning that the ZFPs of de Luis and Shie were engineered, or not naturally occurring, by virtue of their being isolated and sequenced.

The definition of "engineered" at p. 10 has been reviewed and found to require that the ZFP is non-naturally occurring. Designing and/or selecting the ZFP is only discussed at p. 10 as exemplary and thus does not constitute a limiting definition of the term "engineered."

In a footnote, applicants also summarize an additional argument that restriction between Groups I and II was improper under U.S. practice, and reference a decision on petition (granted) in co-owned U.S. application 10/055,713. Applicants note that the examiner did not address the arguments regarding U.S. restriction practice in the co-owned application on the grounds that only PCT practice is applicable in the instant case.

Regarding the petition in co-owned U.S. application 10/055,713, U.S. restriction practice has no bearing on the instant application, which is governed by lack of unity practice under PCT Rule 13.2. Furthermore, the fact patterns between the two cases is quite different in that a critical factor in granting the petition in the co-owned application was that the subject matter of the claims at issue had been examined before the imposition of a second restriction requirement. Thus, no search burden could be established for the second restriction requirement. In contrast, the subject matter of the claims at issue in the instant application have not been examined previously.

In the instant petition, applicants argue that the examiner's interpretation of the term "engineered" is contrary to the definition provided in the specification. Quoting from the specification (p. 10, li. 26-27; p. 24, li. 17-26; and p. 72, li. 12-17), applicants urge that the term "engineered" as used in the pending claims characterizes a ZFP that does not encompass a naturally occurring ZFP that is recombinantly produced and/or fusions of a naturally occurring ZFP. Applicants assert that any protein (isolated, fusion, or recombinantly produced) comprising a naturally occurring ZFP is necessarily excluded from the scope of the pending claim because such a protein is not engineered to bind to a target site, as claimed.

Applicants urge that the claimed subject matter shares the special technical feature of including a non-naturally occurring ZFP that is engineered to bind a target site. Applicants argue that this special technical feature is not found in the cited references, each of which allegedly relates to naturally occurring ZFPs lacking engineered recognition helices. Applicants conclude that unity of invention is present and that all claims should be examined together.

Pages 10, 24, and 72 of the specification have been carefully reviewed. While examples of designed or selected ZFPs with altered target binding sites are disclosed, the only limiting definition of an engineered ZFP is found at p. 10, which merely requires that an "engineered" ZFP is non-naturally occurring. The claims at issue do not require an altered target-binding site, an engineered recognition helix, or any particular sequence modification. Similarly, the claims do not exclude fusion proteins. In the Office Action mailed 19 March 2008, the examiner rejected claims 1, 3-6, and 10-13 under 35 USC 102(a) as being anticipated by Lamar et al. (April 2001, Development 128:1335-1346), which discloses a method of altering the state of differentiation of a cell or population of cells by administering an engineered ZFP which is a fusion protein. Fusion proteins do not exist in nature, and thus the fusion protein of Lamar et al. is non-naturally occurring, meeting the claims' limitation of an engineered ZFP. Lamar et al. constitutes evidence that the claimed invention does not have a special technical feature that distinguishes the claimed invention over the prior art. Therefore, there is a lack of unity among the inventions of Groups I-V.

It is noted that the lack of unity determination must be assessed anew throughout prosecution, in relation to the claims as currently pending. Moreover, MPEP 1893.05(d) provides the following guidance concerning rejoinder opportunities for application filed in compliance with 35 U.S.C 371:

> If an examiner (1) determines that the claims lack unity of invention and (2) requires election of a single invention, when all of the claims drawn to the elected invention are allowable (i.e., meet the requirements of 35 U.S.C. 101, 102, 103 and 112), the nonelected invention(s) should be considered for rejoinder. Any nonelected product claim that requires all the limitations of an allowable product claim, and any nonelected process claim that requires all the limitations of an allowable process claim, should be rejoined. See MPEP § 821.04. Any nonelected processes of making and/or using an allowable product should be considered for rejoinder. The examiner should notify applicants of potential rejoinder of non-elected process claims by placing form paragraph 8.21.04 at the end of any lack of unity determination made between a product and a process of making the product or between a product and a process of using the product.

DECISION

The petition filed under 37 CFR 1.144 on 09 June 2008 is **DENIED**.

The lack of unity determination set forth on 12 December 2007 among the Groups I-V has been maintained.

The application will be forwarded to the examiner to consider the papers filed 09 June 2008 and to prepare an Office action consistent with this petition decision. Should the shared technical become a contribution over the prior art the examiner should re-consider the lack of unity determination. Moreover, should all claims directed to the elected invention become in condition for allowance, the examiner should follow rejoinder practice set forth in MPEP 821.04.

Any request for reconsideration of this decision must be filed with TWO (2) MONTHS of the mail date of this 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.

Andrew Wang
(Acting) Director, Technology Center 1600

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
James W. Emlen, et al.	:	
Application No. 10/490,791	:	DECISION ON REQUEST
Filed: March 23, 2004	:	TO WITHDRAW
Attorney Docket No. INTM/013/01US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 CFR § 10.40 filed June 10, 2005.

The request is **APPROVED**.

A review of the file record indicates that Richard L. Neeley and the attorneys/agents associated with Customer No. 23419 do not have power of attorney in this patent application; but, have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Richard L. Neeley and the attorneys/agents associated with Customer No. 23419 have been withdrawn from the present application and may not prepare or submit papers under 37 CFR § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b).

The request to change the correspondence of record is not acceptable since the intervening assignee has subsequently filed a revocation and power of attorney, including a change of correspondence address. Consequently, all future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant. A copy of this decision is being mailed to the addressed noted in the request to withdraw.

There is an outstanding Office action mailed April 7, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: HOWREY LLP
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DEC 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
LENZ, Christian	:	
Application No. 10/490,810	:	DECISION GRANTING PETITION
Filed: September 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **QGN-042.1P US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1634 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.*

10 MAR 2005

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BOSTON MA 02109

In re Application of NAKAMURA et al. Serial No.: 10/490,823 PCT No.: PCT/JP02/09769 Int. Filing Date: 24 September 2002 Priority Date: 28 September 2001 Attorney's Docket No.: AK-T-448XX For: TUBE-LIKE PLASTIC CONTAINER AND PREFORM THEREFOR	DECISION ON REQUEST FOR CORRECTED FILING RECEIPT

This decision is in response to applicant's request for corrected filing receipt filed in the United States Patent and Trademark Office (USPTO) on 31 January 2005. The petition requests a change in the title for the invention, which differs from the title as listed on the published International application.

BACKGROUND

On 24 September 2002, applicant filed international application No. PCT/JP02/09769 which claimed priority of an earlier Japanese application filed 28 September 2001. A copy of the international application had been communicated earlier to the United States Patent and Trademark Office from the International Bureau on 10 April 2003. The published international application identified the title of the invention as "Resin Tube-Like Container and Preform Thereof".

On 26 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 and preliminary amendment to change the title of the invention. On 08 April 2004, applicant submitted an executed declaration.

On 03 June 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) and filing receipt.

On 31 January 2005, applicant filed, via facsimile in the USPTO, a Request for Corrected Filing Receipt, requesting a correction to the title of the invention.

DISCUSSION

On 26 March 2004, applicant filed an amendment to change the title of the invention to read: "Tube-Like Plastic Container and Preform Therefor". The filing receipt mailed on 03 June 2004 indicated that the title of the invention was "Resin Tube-Like Container and Preform Thereof" and thus, did not reflect the title as amended. Applicant requests correction of the title of the invention to "Tube-Like Plastic Container and Preform Therefor".

The filing receipt is corrected to properly identify the title and is enclosed.

CONCLUSION

For the reasons above, applicant's request for a corrected filing receipt is **GRANTED**.

This application is being forwarded to Group Art Unit 3727 for examination in due course.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile:(571) 272-0459

Enclosure: Corrected Filing Receipt

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18 MAY 2007

CAESAR, REVISE, BERNSTEIN, COHEN & POKOTILOW, LTD.
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Philadelphia, PA 19103-2212

In re Application of BOONE *et al* U.S. Application No.: 10/490,825 PCT No.: PCT/US02/31636 Int. Filing Date: 03 October 2002 Priority Date: 05 October 2001 Attorney Docket No.: D2025/20021 For: PATIENT-SUPPORT DEVICE AND DOCKING CART COMBINATION	**DECISION**

This decision is in response to the "Petition Under 37 CFR §1.182" filed on 23 April 2007.

BACKGROUND

On 25 March 2004, applicants filed a national stage application listing the PCT application number on the transmittal letter (Form PTO-1390) as PCT/US02/61636. All other identifying indications in the application including the specification and declaration were for international application PCT/US02/31636.

On 25 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) noting that the international application was PCT/US02/61636.

On 23 April 2007, applicants filed the subject petition along with authorization to charge the petition fee to Deposit Account No. 03-0075.

DISCUSSION

Applicants state that the transmittal letter "referenced the wrong international application number." Applicants request to correct this error pursuant to 37 CFR 1.182 and submitted a $130.00 petition fee. It is noted that the petition fee under 37 CFR 1.182 is $400.00, not $130.00. This fee has been charged to Deposit Account No. 03-0075 as authorized.

A review of the above-captioned application file verifies that the wrong U.S. application number, PCT/US02/61636, was designated on the transmittal letter filed with

the original papers. However, all other indications on the transmittal letter including the inventors, title, international filing date and priority date are for PCT/US02/31636. Moreover, the specification and declaration submitted with the application were for PCT/US02/31636.

Hence, it is clear that the subject application was a national stage of PCT/US02/31636.

CONCLUSION

For the reasons listed above, the petition under 37 CFR 1.182 to correct the PCT application number listed on the transmittal letter is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 25 July 2005 reference the wrong international application and are both **VACATED.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuing a new Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of John G. Howard Application No. 10/490,838 Filed: March 25, 2004 Attorney Docket No. MCCAIN-USA 3.3-005	: : : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, 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 July 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is .

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 $1,620.00; 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 1794 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

23 JUL 2004

#A

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Beyer Weaver & Thomas, LLP
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In re Application of	: DECISION ON
Jonathan Curnyn	:
Application No.: 10/490,881	:
PCT No.: PCT/GP02/04349	: PETITION UNDER
Int. Filing Date: 25 September 2002	:
Priority Date: 25 September 2001	: 37 CFR 1.137(b)
Attorney's Docket No.: GILLP026	:
For: A VIRTUAL WIRELESS NETWORK	:

This decision is in response to applicants' "Petition To Revive Unintentionally Abandoned International Application" filed 26 March 2004.

BACKGROUND

On 25 September 2002, this international application was filed, claiming an earliest priority date of 25 September 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 25 March 2004.

On 26 March 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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1 5 AUG 2007

Ronald J Baron
Hoffmann & Baron
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of	:	
RAFAILOVICH et al.	:	
Application No.: 10/490,882	:	
Filed: March 26, 2004	:	DECISION ON PETITION
Attorney Docket No.: 178-304 PCT/US	:	
For: FLAME RETARDANT AND UV ABSORPTIVE POLYMETHYLMETHACRYLATE NANOCOMPOSITES	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 05, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional and international applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was

unintentional.

The petition does not comply with item (1) above for the following reasons:

1) The current application is the U.S. national stage of PCT/US0 2/30971 filed September 27, 2002 and therefore was not copending with Application No. 09/525, 709 which issued on January 15, 2002.

2) The amendment improperly claims benefit to international application PCT/US02/30971. A national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *Note* MPEP § 1893(b).

3) The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

4) The amendment fails to state the relationship of International Application No. PCT/US01/08154 filed March 14, 2001, to the instant application. (See 37 CFR 1.78(a)(2)(i)) The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of International Application No. ---, filed---." A benefit claim that merely states: "This application claims the benefit of International Application No. ---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11, Reference to Prior Application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

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

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298 .

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

1 5 NOV 2007

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

Ronald J Baron
Hoffmann & Baron
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of RAFAILOVICH et al. Application No.: 10/490,882 Filed: March 26, 2004 Attorney Docket No.: 178-304 PCT/US For: FLAME RETARDANT AND UV ABSORPTIVE POLYMETHYLMETHACRYLATE NANOCOMPOSITES	: : : : : : :	DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 10, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional and international applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was

unintentional.

The benefit claim to US application 09/525,709 does not comply with 35 U.S.C. 120, in that, the current application is the U.S. national stage of PCT/US02/30971 filed September 27, 2002 and therefore was not copending with Application No. 09/525, 709 which issued on January 15, 2002. Additionally, there is no copendancy with PCT/US01/08154, therefore, that claim is also defective.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298 .

BM

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

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SEP 04 2008

In re Application of	:	
Aloys Wobben	:	
Application No. 10/490,896	:	DECISION GRANTING PETITION
Filed: March 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 970054.450USPC	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 9, 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 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

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.*

26 OCT 2004

#6

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Madson & Metcalf
15 West South Temple
Suite 900
Salt Lake City UT 84101

In re Application of	:	
DOUGLAS, Patrick Joseph	:	DECISION ON
Application No.: 10/490,899	:	
PCT No.: PCT/GB02/04336	:	PAPERS
Int. Filing Date: 25 September 2002	:	
Priority Date: 26 September 2001	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 1512.2.138	:	
For: VIBRATING GRID SHAFT ASSEMBLY	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 23 August 2004, which was accompanied by a declaration of inventors. The indication in this declaration that sole inventor Douglas is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 25 September 2002, applicant filed international application PCT/GB02/04336, which designated the United States and claimed priority of an earlier application filed on 26 September 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 03 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 March 2004.

On 26 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 and an assertion of small entity status.

On 02 July 2004, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable time period for reply.

On 23 August 2004, applicant submitted the instant submission, which was accompanied by a declaration of the inventor and the surcharge under 37 CFR 1.492(e). The indication in this

declaration that inventor Douglas is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 23 August 2004 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 23 August 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

03 NOV 2005

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MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

In re Application of PATRICK JOSEPH DOUGLAS Serial No.: 10/490,899 PCT No.: PCT/GB02/04336 Int. Filing Date: 25 September 2002 Priority Date: 26 September 2001 Attorney's Docket No.: 1512.2.38 For: VIBRATING GRID SHAFT ASSEMBLY	DECISION ON REQUEST FOR CORRECTED FILING RECEIPT

This decision is in response to applicant's request for corrected filing receipt filed in the United States Patent and Trademark Office (USPTO) on 30 December 2004 and resent via facsimile on 13 October 2005. The petition requests deletion of Mary Kathleen Douglas from the Applicant Section and correction of Power of Attorney information to Evan R. Witt.

BACKGROUND

On 25 September 2002, applicant filed international application No. PCT/GB02/04336 which claimed priority of an earlier British application filed 26 September 2001.

On 26 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 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(a) and (b) must be submitted. On 23 August 2004, applicant responded to the 905. On 15 December 2004, a filing receipt was mailed to applicant.

On 30 December 2004, applicant filed, in the USPTO, a Request for Corrected Filing Receipt, requesting a correction to the power of attorney and deletion of legal representative Mary Kathleen Douglas from the Applicant Section.

DISCUSSION

A review of the application file indicates that Mary Kathleen Douglas is the legal representative of deceased inventor Patrick Joseph Douglas and is not an Applicant. Thus, applicant's request to delete Mary Kathleen Douglas from the Applicant Section of the filing

receipt is granted. Likewise, a review of the declaration submitted on 23 August 2004 indicates that Evan R. Witt has power of attorney on behalf of the legal representative of the deceased inventor.

The filing receipt is corrected to properly identify the applicant and attorney of record.

CONCLUSION

For the reasons above, applicant's request for a corrected filing receipt is **GRANTED**. The name of Mary Kathleen Douglas, legal representative will be deleted. The Power of Attorney information will be corrected to "Evan R. Witt 32512".

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile:(571) 272-0459

Enclosure: Corrected Filing Receipt

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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

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JUN 09 2008

In re Application of Patrick Joseph Douglas Application No. 10/490,899 Filed: August 23, 2004 Attorney Docket No. 7881.42	: : : : :	ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 27, 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 August 29, 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 November 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3653 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

01 MAR 2005

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Charles S. Sara
DeWitt Ross & Stevens
8000 Excelsior Drive
Suite 401
Madison, WI 53717-1914

In re Application of
RITTER, Jean-Marc *et al*
U.S. Application No.: 10/490,925
PCT No.: PCT/FR02/02469
Int. Filing Date: 12 July 2002
Priority Date: 27 September 2001
Attorney Docket No.: 34466.000
For: SYSTEM FOR WATER DISPENSER, DISINFECTION BY INTEGRAL HEATING, . . .

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' which been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 09 December 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available.

On 20 December 2004, applicants submitted a document titled "Transmittal of Missing Parts of Application Under 37 C.F.R. § 1.53" which was accompanied by, *inter alia*, the instant petition; the $200.00 petition fee; Exhibits ("Exh.") A - C.

DISCUSSION

Petitioners claim that joint inventor, Jean-Marc Ritter has refused to cooperate in the above-captioned application and have submitted a petition under 37 CFR 1.47(a) in response to the Notification of Missing Requirements mailed 09 December 2004.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor. Applicants failed to satisfy item (2).

Concerning item (1), the $200.00 petition fee has been paid.

With regard to item (3), applicants satisfy this requirement by listing the last known address of the co-inventor, Jean-Marc Ritter as:

2 Chemin du Champ d'Issart,
63122 Saint Genest
Champanelle, France

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by three of the four joint inventors on behalf of the nonsigning joint inventor. All of the inventors' names, residences, post office addresses and citizenship are typed on this declaration. The declaration is in compliance with 37 CFR 1.497(a) & (b) and meets the requirement of section 409.03(a) of the Manual of Patent Examining Procedure (MPEP). Thus, items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Concerning item (2), the 37 CFR 1.47(a) applicant claims in the petition that Jean-Marc Ritter "has not responded and apparently refuses to sign the Declaration." Section 409.03(d) of the MPEP discusses a refusal by an inventor and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . 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).
>
> 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.

The 37 CFR 1.47(a) applicant has provided documentary evidence showing that a declaration and assignment documents were sent to Mr. Ritter by registered letter on

13 September 2004 and that Mr. Ritter "acknowledged receipt of this letter on September 19, 2004. No reply was forthcoming from Mr. Ritter in response to the sending of these documents." *See* Exh. C (Thurgood Letter).

This conduct would be sufficient to show a refusal by Mr. Ritter.

However, there is no evidence that Mr. Ritter was presented with a complete copy of the application, including specification, claims and drawings as required. As stated above, a complete copy of the application must be provided to Mr. Ritter. If Mr. Ritter does not accept delivery of the application documents, this conduct would also be sufficient to show a refusal. Documentary evidence, if any, should also be submitted in the renewed petition. For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Accordingly, it is not appropriate to accept this application under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

21 JUN 2005

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Charles S. Sara
DeWitt Ross & Stevens
8000 Excelsior Drive
Suite 401
Madison, WI 53717-1914

In re Application of
RITTER, Jean-Marc *et al*
U.S. Application No.: 10/490,925
PCT No.: PCT/FR02/02469
Int. Filing Date: 12 July 2002
Priority Date: 27 September 2001
Attorney Docket No.: 34466.000
For: SYSTEM FOR WATER DISPENSER, DISINFECTION BY INTEGRAL HEATING, . . .

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(a) to Proceed . . ." filed 31 May 2005.

BACKGROUND

On 01 March 2005, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 31 May 2005, applicants filed a renewed petition which was accompanied by, *inter alia*, a one-month extension request with fee and Exhibits A - D.

DISCUSSION

The prior decision noted that petitioners demonstrated that a declaration for the subject application was provided to the nonsigning inventor, Jean-Marc Ritter, on 19 September 2004. However, there was no evidence showing that he was presented with a complete copy of the application, including specification, claims and drawings as required by section 409.03(d) of the MPEP.

In the renewed petition, the 37 CFR 1.47(a) applicants have provided documentary evidence showing that a complete copy of the subject application was mailed to the nonsigning inventor on 11 May 2005. The cover letter accompanying these documents requested that Mr. Ritter respond by 23 May 2005. The registered receipt provided in Exhibit D shows that it was received on 12 May 2005. Petitioners claim that Mr. Ritter has failed to respond to any attempts made to contact him.

This evidence is sufficient to satisfy item (2) of 37 CFR 1.47(a).

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 12 July 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 20 December 2004.

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

21 JUN 2005

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United States Patent and Trademark Office
P.O. Box 1450
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Mr. Jean-Marc Ritter
2 Chemin du Champ d'Issart
63122 Saint Genes
Champanelle, France

In re Application of
RITTER, Jean-Marc *et al*
U.S. Application No.: 10/490,925
PCT No.: PCT/FR02/02469
Int. Filing Date: 12 July 2002
Priority Date: 27 September 2001
Attorney Docket No.: 34466.000
For: SYSTEM FOR WATER DISPENSER, DISINFECTION BY INTEGRAL HEATING, . . .

Mr. Ritter:

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Charles S. Sara
DeWitt Ross & Stevens
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Madison, WI 53717-1914

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February 27, 2008

Roger W. Parkhurst
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1795

Patent No.: 7,226,492 B2
Application No.: 10/490,962
Inventor(s): Pascal Mahot
Issued: June 5, 2007
Title: **HIGH-POWDER TUNGSTEN-BASED SINTERED ALLOY**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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SEP 18 2005

IPSOLON LLP
805 SW BROADWAY, #2740
PORTLAND, OR 97205

In re application of Clive Harrie Boshier et al. Application No. 10/490,966 Filed: August 5, 2004 For: BEARING ASSEMBLY AND METHOD OF MANUFACTURING A BEARING ASSEMBLY	: : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on July 28, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, PO Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 10/05/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOV - 9 2005

IPSOLON LLP
805 SW BROADWAY, #2740
PORTLAND, OR 97205

In re application of Clive Harrie Boshier et al. Application No. 10/490,966 Filed: August 5, 2004 For: BEARING ASSEMBLY AND METHOD OF MANUFACTURING A BEARING ASSEMBLY	: : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on October 24, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

KJD/dew: 10/27/05

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BRIAN D. SMITH, P.C.
1125 SEVENTEENTH STREET
SUITE 600
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of	:	
Barnett et al.	:	
Application No. 10/490968	:	DECISION ON PETITION
Filed: 03/24/2004	:	
Atty Dcket No. 558-6US	:	

This is a decision on the petition filed on 1 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 23 December, 2005, for failure to timely file a response to the non-final Office action mailed on 22 September, 2005, which set a three (3) month shortened statutory period to respond. 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.

Petitioners have filed an amendment as the required reply.

The application is being referred to Technology Center Art Unit 3723 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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2 8 MAR 2008

Camille Jolly-Tornetta, Ph.D.
RheoGene, Inc.
2650 Eisenhower Avenue
Norristown, PA 19403

In re Application of	:	DECISION ON
Subba Reddy Palli.	:	
Application No.: 10/490,971	:	PETITION UNDER
Filing Date: 20 February 2002	:	
Attorney's Docket No.: A01284-US	:	
For: Leafhopper ecdysone... uses thereof	:	37 CFR 1.78(a)(6)

This is in response to applicant's communication "PETITION UNDER 37 CFR 1.78(a)(6)" filed 29 August 2007 to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

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

A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The petition complies with items (2) and (3) but not item (1) under 37 CFR 1.78(a)(6).

(1) With regard to item (1), the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

(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.

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

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

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

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

Any questions concerning this matter may be directed to Rafael Bacares at (571) 272-3276.

Boris Milef
Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Subba Reddy Palli :
Application No. 10/490,971 :
Filed: March 25, 2004 :
Attorney Docket No. A9531

This is a decision on the petition, filed May 9, 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 September 10, 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 1646 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).

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01 AUG 2008

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Subba Reddy Palli	:
Application No. 10/490,971	: DECISION ON PETITION
Filed: February 20, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2584.0190001/ RWE/GER	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed 15 May 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The renewed petition is **GRANTED**.

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

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

Applicant previously satisfied items 2 and 3.

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

The petition satisfies the remaining requirement for a grantable petition under 37 CFR 1.78(a)(6) in that a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1647 for appropriate action on the amendment submitted 15 May 2008, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/325,096.

Boris Milef

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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23 JUL 2008

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of	:	
ZHANG et al	:	
U.S. Application No.: 10/490,976	:	DECISION ON PETITION
PCT Application No.: PCT/US2002/005234	:	UNDER 37 CFR 1.78(a)(6)
International Filing Date: February 20, 2002	:	
Attorney Docket No.: 2584.0440001/RWE/GER	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 23, 2008, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of the prior-filed U.S. provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a

proper statement of unintentional delay.[1] Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

A review of the application file reveals that the declaration submitted under PCT Rule 4.17(iv) is improper. Specifically, the declaration, which was filed on May 28, 2002 (i.e. not with the international application), does not sufficiently identify the specification to which it is directed as required under 37 CFR 1.497(a)(2). See MPEP 602, Rev.5, Aug. 2006, Section VI. and MPEP 1896, Rev. 6, Sept. 2007, Section VI. Furthermore, the declaration is an improper composite document, consisting of two of Page 1 and one of Page 2. It is not acceptable to combine separate pages (e.g. signature pages) from different copies of a declaration into a single document for submission.

Because a proper declaration under 35 U.S.C. 371 (c)(4) has not been provided, the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 mailed on July 6, 2004 was sent in error and is hereby **VACATED**.

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for preparation and mailing of a Notification of Missing Requirements Under 35 U.S.C. 371

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[1] Applicant is advised that 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 from the date the claim was due under 37 CFR 1.78(a)(5)(ii) until the date the claim was filed was unintentional, petitioner must notify the Office.

(Form PCT/DO/EO/905), which should indicate that a proper oath or declaration under 37 CFR 1.497(a) must be filed.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

2 1 MAY 2009

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
Zhang et al.	:	
Application No.: 10/490,976	:	DECISION
PCT No.: PCT/US02/05234	:	
Int. Filing Date: 20 February 2002	:	ON
Priority Date: 26 September 2001	:	
Attorney Docket No.: 2584.0440001/RWE/GER	:	PETITION
For: Whitefly Ecdysone Receptor Nucleic	:	
Acids, Polypeptides And Uses Thereof	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 25 March 2009.

BACKGROUND

This international application was filed on 20 February 2002, claimed an earlier priority date of 26 September 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 26 March 2004. Applicants filed *inter alia* the basic national fee on 25 March 2004.

On 26 September 2008, after other proceedings, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

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 $200.00 petition fee has been paid.

Regarding **requirement (2)**, petitioner argues that "Jianzhong Zhang has not been located and has not signed the declaration." Petitioner provides a "Statement of Facts..." signed by Debbi Lucas, who indicates that she sent a letter (accompanied by a declaration and a copy of the application) via UPS to the non-signing inventor on 30 October 2008. Ms. Lucas references entries on a UPS Package Progress record, to the effect that the "receiver was unavailable to sign on 3rd delivery attempt." It is not clear whether this evidence establishes that inventor Zhang's address was not valid; since all of the delivery attempts appear to have been made within a one-week period, it is possible that Mr. Zhang merely was away on vacation or the like. Such a circumstance would not provide an appropriate basis for relief under 37 CFR 1.47(a). *See* MPEP 409.03(d).

Ms. Lucas also states that she performed two Google searches for Mr. Zhang, but "was unable to locate him." However, petitioner has not described what other diligent efforts may have been undertaken to ascertain Mr. Zhang's whereabouts- for instance, telephone directory searches, voter registration searches, skip trace searches, or the like. In addition, it appears that the Google search inquiry was only for his name, returning about 102,000 results. It is not clear whether petitioner made any effort to narrow these results (e.g., by searching for the inventor's name together with his technical field, academic qualifications or the like). Based on the totality of the record, it would not be appropriate to conclude that requirement (2) has been satisfied.

Regarding **requirement (3)**, the petition indicates the last known address of the non-signing joint inventor.

Regarding **requirement (4)**, declaration filed on 25 March 2009 is acceptable.

DECISION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). 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

3 0 JUL 2009

United States Patent and Trademark Office

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
Zhang et al.	:	
Application No.: 10/490,976	:	DECISION
PCT No.: PCT/US02/05234	:	
Int. Filing Date: 20 February 2002	:	ON
Priority Date: 26 September 2001	:	
Attorney Docket No.: 2584.0440001/RWE/GER	:	PETITION
For: Whitefly Ecdysone Receptor Nucleic	:	
Acids, Polypeptides And Uses Thereof	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 21 July 2009.

DISCUSSION

In a Decision mailed on 21 May 2009, the petition under 37 CFR 1.47(a) filed on 25 March 2009 was dismissed, without prejudice, because requirement (2) had not been satisfied with respect to non-signing joint inventor Jianzhong Zhang.

In response, petitioner has submitted a declaration executed by Mr. Zhang. Taken together with the declaration filed on 25 March 2009, this declaration complies with 37 CFR 1.497(a) and (b). Therefore, the petition under 37 CFR 1.47(a) is MOOT.

DECISION

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

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **21 July 2009**.

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

19 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Barbara Rae-Venter
Rae-Venter Law Group, P.C.
Monterey, CA 93942-1898

In re Application of	:	
KORTH, et al.	:	
Application No.: 10/490,977	:	
PCT No.: PCT/US03/25994	:	DECISION ON PETITION
Int. Filing Date: 18 August 2003	:	
Priority Date: 10 October 2002	:	UNDER 37 CFR 1.181
Attorney Docket No.: UCSF.010.01US	:	
For: MONOCLONAL ANTIBODY TOOLS	:	
FOR BIOCONFORMATIC ANALYSIS	:	

This decision is in response to the applicant's "Response to Communication" filed 16 May 2005 in the United States Patent and Trademark Office (USPTO). The paper is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 07 April 2005, applicant was mailed a communication accepting the filed declarations and indicating a 35 U.S.C. 371 date of 01 April 2005. Applicant was advised that a sequence listing in response to the "Notification of Missing Requirements" mailed 15 October 2004 was still outstanding.

On 16 May 2005, applicant filed the present response indicating that a response was filed 15 March 2005 accompanied by a copy of the response.

DISCUSSION

A review of the application filed finds that referenced response contained therein. Therefore, applicant's petition under 37 CFR 1.181 is dismissed as moot. Applicant is advised that a review of USPTO records indicates that the computer readable form does not match the application specification. This file will be returned to the United States Designated/Elected Office for further processing advising applicant of the above and presumably forwarding a copy of the CRF Error Report.

CONCLUSION

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

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

12 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Barbara Rae-Venter
Rae-Venter Law Group, P.C.
P.O. Box 1898
Monterey, CA 93942-1898

In re Application of	:	
KORTH, et al.	:	
U.S. Application No.: 10/490,977	:	DECISION ON REQUEST
PCT No.: PCT/US03/25994	:	
Int. Filing Date: 18 August 2003	:	TO WITHDRAW AS
Priority Date: 10 October 2002	:	
Attorney Docket No.: UCSF.010.01US	:	ATTORNEY OF RECORD
For: MONOCLONAL ANTIBODY TOOLS FOR	:	
BIOCONFORMATIC ANALYSIS	:	

This decision is in response to applicant's "Request For Permission to Withdraw Under 37 C.F.R. § 1.36 filed 31 May 2005 in the United States Patent and Trademark Office (USPTO).

In light of counsel's retirement from the practice of law, the request is **GRANTED**.

All future correspondence will be mailed to the new correspondence address of record:

Gerald F. Swiss, Esq.
Foley & Lardner, LLP
1530 Page Mill Road
Palo Alto, CA 94304

This application is being returned to the DO/EO/US for processing in accordance with this decision; namely changing the correspondence address.

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

cc:

Gerald F. Swiss, Esq.
Foley & Lardner, LLP
1530 Page Mill Road
Palo Alto, CA 94304

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

FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304

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NOV 06 2006

OFFICE OF PETITIONS

In re Application of	:	
KORTH, et al.	:	
Application No. 10/490,977	:	DECISION ON PETITION
Filed: April 01, 2005	:	TO WITHDRAW
Attorney Docket No. UCSF.010.01US	:	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 25, 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 Karen E. Flick on behalf of all attorneys of record who are associated with Customer Number 38706. All attorneys/agents associated with the Customer Number 38706 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 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Carsten Korth
Haendelstrasse 20,
D-40593
Duesseldorf, GERMANY

cc: Jonathan Alan Quine
The Quine Intellectual Property Law Group, P.C.
2033 Clement Ave. #200
Alameda, CA 94501

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

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MAY 06 2008
OFFICE OF PETITIONS

In re Application of	:	
Adrian Boyle, et. al.	:	
Application No. 10/490,985	:	ON PETITION
Filed: August 20, 2004	:	
Attorney Docket No. 07-834	:	

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

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

The instant petition fails to contain the statement required by 37 CFR 1.137(b), which states 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. Therefore, this application cannot be revived until the required statement has been submitted.

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

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/490,985	08/20/2004	Adrian Boyle	07-834

CONFIRMATION NO. 3880

POA ACCEPTANCE LETTER

OC000000029768158

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Date Mailed: 05/06/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/20/2007.

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.

/amsmith/

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

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32ND FLOOR
CHICAGO, IL 60606

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Adrian Boyle, et. al.	:	
Application No. 10/490,985	:	ON PETITION
Filed: August 20, 2004	:	
Attorney Docket No. 07-834	:	

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

The application became abandoned for a failure to respond to a Restriction Requirement mailed March 28, 2006. A Notice of Abandonment was mailed on 4/13/07. In response, on 12/20/07, a petition under 137b was filed; however, the petition was dismissed in a decision mailed May 6, 2008. On April 21, 2008, the present petition was filed in the form of a request for reconsideration, including a two-month extension of time.

The petition has been reconsidered as requested; but the result is the same. The petition is again **DISMISSED**.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). Petitioner admits that he was not the attorney of record at the time of abandonment, but rather Timothy Keefer at Seyfarth Shaw. Petitioner acknowledges that he was unable to "speak to Mr. Keefer directly to further form my own impression of the circumstances surrounding the abandonment of the application and the delay in filing the petition, but he was advised by a Mr. Peter Woodford "that no attorney or assistant at Seyfarth intended to abandon the application". It is noted Peter Woodford is not a registered attorney of record, nor has his relationship to this application been established.

Petitioner should supply the Office with the title of Peter Woodford and provide an explanation as to why petitioner has been unable to speak with Timothy Keefer. It is permissible for a registered attorney to make the statement of unintentional delay after performing an investigation. Here it appears the statement is based on pure assumption. According to petitioner, the responsible attorney for this application was Timothy Keefer. There is no statement from Timothy Keefer found in the file explaining the delay in responding to the outstanding Office action.

Since the Office must determine if the failure to timely respond was in fact unintentional, the statement should be made by the party of interest at the time of abandonment.

When the issue of revival is addressed, the focus must be on the rights of the party or parties as of the date of abandonment. See Kim v. Quigg, 718 F.Supp. 1280, 1284, 12 USPQ 1604, 1607 (E.D. Va. 1989).

The question under 37 CFR 1.137(b) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 15, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Timothy Keefer was responsible for this application at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts were made to reply and with whom this matter was discussed outside of Seyfarth Shaw LLP. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action is required from the responsible person at Seyfarth Shaw LLP and whoever else was involved with this application at the time of abandonment. Petitioner is reminded that **"Statements are required from any and all persons at Seyfarth Shaw LLP and the responsible person having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action".**

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

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

By mail: Mail Stop PETITION
Commissioner for Patents

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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FEB 18 2010

OFFICE OF PETITIONS

In re Application of
Adrian Boyle, et. al.
Application No. 10/490,985
Filed: August 20, 2004
Attorney Docket No. 07-834

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on October 20, 2009, to revive the above-identified application.

In response to the decision mailed May 20, 2009, petitioner submits the present request for reconsideration with a three month extension of time filed on October 20, 2009.

It is noted that Patrick Gattari was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, his 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).

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 lengthy 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 construal of the statement appearing in the petition.

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 response to the Election/Restriction Requirement; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center Art Unit 2813 for review of the response filed December 18, 2006.

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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of:
Nakagawa, Yasushi et al
Serial No.: 10/491,002
Filed: Mar. 29, 2004
Docket: 1033010-000080
Title: REINFORCEMENT BINDING MACHINE, REEL, AND METHOD OF DETECTING ROTATION OF REEL

4/17/08

DECISION ON PETITION

This is a decision on the petition filed on Mar. 21, 2008 by which petitioner requests reconsideration and withdrawal of the restriction requirements mailed Aug. 14, 2007 and that non-elected claims 13-15 and 21 be rejoined and examined on the merits. Claims 1, 3-5, 16-20 and 22-24 were elected for prosecution. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is dismissed.

A review of the record reveals that on Aug. 14, 2007, a restriction requirement was made under 35 USC §§ 121 and 372 between three disclosed and claimed inventions: I) claims 1, 3-5, 16-20 and 22-24 drawn to a reel for use in a reinforcement binding machine, II) claims 13-15 drawn to a reel with at least two detection objects and III) claim 21 drawn to a reel rotation detecting method. This application was filed under 35 USC § 371 and therefore the groups of inventions must be shown to be not so linked as to form a single general inventive concept under PCT Rule 13.1.

Petitioner argues that the examiner's restriction requirement was improper because the examiner did not show any analysis of the technical features as stated in the restriction showing that they are different. Petitioner further argues that the ISA has found no problem with the unity of invention. Nevertheless, the examiner has now determined that a restriction requirement is required after the applicant filed additional new claims in the amendment of May 24, 2007. Petitioner also questions the examiner's failure to address why restriction should now be required, when in fact no previously unclaimed "technical features" have been identified in the new claims. Petitioner requests a better explanation for the restriction requirement. Petitioner believes that the mere addition of new claims does not by itself give cause to the imposition of a restriction requirement.

Relevant portions of MPEP 1850 Unity of Invention, states [**emphasis** added below]:

> An international application should relate to only one invention or, if there is more than one invention, the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept (PCT Rule 13.1). With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).
>
> Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," should be considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.
>
> Lack of unity of invention may be directly evident "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. For example, independent claims to A + X, A + Y, X + Y can be said to lack unity *a priori* as there is no subject matter common to all claims. In the case of independent claims to A + X and A + Y, unity of invention is present *a priori* as A is common to both claims. **However, if it can be established that A is known, there is lack of unity *a posteriori*, since A (be it a single feature or a group of features) is not a technical feature that defines a contribution over the prior art.**

In judging the propriety of the restriction requirement, a lack of unity of invention must be either directly evident "*a priori*", that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*", that is, after taking the prior art into consideration.

The examiner indicated in the restriction requirement that the inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 3.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I has the technical feature of requiring wire for the reinforcement binding, Group II has a different technical feature of requiring at least two detection objects on the reel, and Group III has a different technical feature of having the capability of detecting rotation based on differences between quantities of lights reflected from certain elements.

MPEP 1850 clearly states that "Unity of invention has to be considered in the first place only in relation to the *independent claims* in an international application and *not the dependent claims*." [*emphasis* added]. Therefore, the examiner must show lack of unity "*a priori*" in the independent claims only.

After the examiner issued the restriction requirement and the applicant elected the Group I invention (claims 1, 3-5, 16-20 and 22-24), the examiner issued a second action final rejection dated Nov. 28, 2007. In the final Office action, the examiner rejected the elected independent claim 1 as being anticipated by Hanagaskai et al (USP 5,515,887). Claim 1 is the only independent claim in the elected group I.

Therefore, in accordance with MPEP 1850, it became apparent "*a posteriori*", that is, after taking the prior art into consideration that lack of unity of invention indeed exists. Because all of the features of claim 1 is known and does not avoid the prior art, there is no special technical feature that defines a contribution over the prior art that is common to all of the independent claims. In this situation, clearly there is lack of unity of invention and the examiner may, therefore, require restriction.

Under the circumstances, the examiner's restriction requirement by a showing of lack of unity is considered proper. The request to have the restriction requirement withdrawn will not be granted.

With regard to the timing of the restriction requirement, it should be noted that the time for making a restriction requirement may be made at any time before final action (37 CFR 1.142 (a)). Therefore, there appears to be no error in making the restriction requirement in view of the newly added claims in the amendment of May 24, 2007.

Petitioner's argument regarding the absence of a unity of invention invitation during the international stage of the application in the Japanese Patent Office is evidence to prove that there was no lack of unity of invention is not persuasive in the current U.S. National stage application. There is no Treaty obligation or preclusion that a new holding of lack of unity cannot be determined in the National stage. Also, there is no U.S. statute or regulation prohibiting a new holding of lack of unity in the National stage.

Conclusion

For the reasons outlined above, the restriction requirement is in accordance with proper Office procedure. Accordingly, the restriction requirement stands. Petitioner's request to withdraw the restriction requirement is dismissed.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3725 for further examination and consideration of the latest amendment filed on Mar. 21, 2008. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR § 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4530.

The petition is dismissed.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

28 SEP 2004

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Dykema Gossett PLLC
Franklin Square, Third Floor West
1300 I Street, NW
Washington, DC 20005

In re Application of NAYLOR, Graham et al. Application No.: 10/491,010 PCT No.: PCT/DK02/00566 Int. Filing Date: 30 August 2002 Priority Date: 28 September 2001 Attorney Docket No.: 66722-045-7 For: METHOD FOR FITTING ... HEARING AID USER	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Response to Notification of Missing Requirements," filed on 30 August 2004. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 30 August 2002, applicant filed international application PCT/DK02/00566, claiming a priority date of 28 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 April 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 29 March 2004 (28 March 2004 was a Sunday).

On 29 March 2004, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the 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) was required.

On 30 August 2004, applicant submitted the instant petition, accompanied by an executed declaration and a date-stamped postcard receipt.

On 08 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 30 August 2004.

On 15 September 2004, applicant submitted "Request For Corrected Notice of Acceptance and Filing Receipt."

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by serial number and docket number, stamped 14 April 2004 and listing a declaration. This is adequate evidence that the listed item was received by the Office on 14 April 2004. Applicant indicates that the enclosed declaration is a true copy of the 14 April 2004 submission and the statement is signed by someone registered to practice before the Office. The declaration is accepted as having been received on 14 April 2004.

The declaration submitted on 14 April 2004 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notice of Acceptance mailed 08 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, including mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 14 April 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

18 MAR 2005

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DOERNER, SAUNDERS, DANIEL & ANDERSON
320 S. Boston, Suite 500
Tulsa, OK 74103

In re Application of :
HIRSCH, Gary Franklin *et al* :
U.S. Application No.: 10/491,015 :
PCT No.: PCT/US02/30561 :
Int. Filing Date: 25 September 2002 : **DECISION**
Priority Date: 26 September 2001 :
Attorney's Docket No.: 016061.01 :
For: DYE REMOVAL FROM DENIM SCRAP :
WITH A FORCED CIRCULATION KIER :

The decision is in response to applicants' petition filed on 08 December 2004. This is treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 25 March 2004, petitioner filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the basic national fee and an unsigned declaration.

On 18 May 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) indicating that applicant completed the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 24 December 2003.

On 08 June 2004, the DO/EO/US mailed a Withdrawal of Previously Sent Notice vacating the Form PCT/DO/EO/903 mailed 18 May 2004. 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. Petitioners were given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 08 December 2004, the 37 CFR 1.47(b) applicant submitted a petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a $130.00 petition fee; a four-month extension fee of $795.00; a $65.00 surcharge fee; an unexecuted declaration; a "Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor Gary F. Hirsch"; a "Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor David M. Hall."

On 09 December 2004, petitioner filed a supplemental response which included a copy of a signature page of a declaration signed by Robert T. Patton.

On 17 March 2005, applicants submitted via facsimile a copy of the documents filed 08 December 2004 and a date-stamped postcard receipt for the 08 December 2004 documents.

DISCUSSION

The three joint inventors in the above-captioned application are Gary F. Hirsch, Robert T. Patton and David M. Hall. On 08 December 2004, petitioners claimed that no inventors were cooperating or could be located in the above-captioned application and filed several documents including a petition under 37 CFR 1.47(b). On 09 December 2004, petitioners submitted a supplemental response which included an executed signature page of the declaration for Robert T. Patton.

Papers Filed 08 December 2004

Some of the 08 December 2004 papers were not located in the file. Applicant resubmitted these papers on 17 March 2005 along with a date-stamped postcard receipt at the request of the Office of PCT Legal Administration.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant provided a copy of the date-stamped filing receipt for the documents submitted 08 December 2004. The postcard receipt records that several documents were received including a "Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor(s) Gary F. Hirsch, Robert T. Patton, David M. Hall." The postcard receipt is stamped "Rec'd PCT/PTO 08 DEC 2004" across its face. The U.S. application number, and attorney docket number were listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that the documents were originally received by the USPTO on 08 December 2004.

Petition Under 37 CFR 1.47(a)

The petition is treated under 37 CFR 1.47(a), not 37 CFR 1.47(b) because petitioner submitted an executed signature page of the declaration by joint inventor Robert T. Patton on 09 December 2004.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor(s) cannot be located or refuse(s) to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor(s).

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to $200.00 on 08 December 2004. Petitioners submitted a $130.00 petition fee. The $70.00 difference will be charged to Deposit Account No. 06-0540 as authorized. Item (1) of 37 CFR 1.47(a) is complete.

With regards to item (3), the last known address of Gary F. Hirsch is 1144 Moore Road, Woodside, CA 94062. The last known address of David M. Hall was updated to 533 Jasmine Lane, Auburn AL 36830-6627. Item (3) is complete.

With regards to item (2) of 37 CFR 1.47(a), petitioner submitted a statement of facts by K. Joy Nunn, President and COO of Sustainable Solutions, Inc. on behalf of the nonsigning joint inventors, Gary F. Hirsch and David M. Hall.

Concerning, Mr. Hirsch, the petitioner claims that they are currently in litigation with Mr. Hirsch. Petitioner instructed its counsel to contact Mr. Hirsch's lawyer to determine if he was willing to sign the declaration. Petitioner states that no response has been received from M. Hirsch or his counsel. No other relevant evidence was provided.

Section 409.03(d) of the MPEP discusses a refusal by an inventor, and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor . . . ,
>
> 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 . . . ,
>
> 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.

Mr. Hirsch's failure to respond may indeed constitute a refusal but petitioner has not provided sufficient details to make this determination. A statement of facts must be provided by a person having first hand knowledge showing that a complete copy of the application was provided to Mr. Hirsch's lawyer, a request was made for Mr. Hirsch to participate in the above-captioned application and a deadline was breached, or a reasonable time had passed. Petitioner must also submit all documentary evidence including all correspondence mailed in this regard in the renewed petition. Thus, petitioner failed to meet item (2) of 37 CFR 1.47(a) regarding Mr. Hirsch.

Concerning Mr. Hall, petitioner indicates that a new address for Mr. Hall was believed to have been found near his old address in Auburn, Alabama. Petitioner states that he has tried to contact Mr. Hall but has been unsuccessful so far. No other information or evidence was provided.

Applicants' burden in proving that an inventor cannot be located or reached is also explained in section 409.03(d) of the MPEP which states, in part:

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

Petitioner must submit a more detailed statement concerning the attempts to contact Mr. Hall to satisfy item (2) of 37 CFR 1.47(a). This statement of facts should include all relevant dates and the method used to try to contact Mr. Hall. Copies of all documentary evidence (if any) must also be provided. Hence, item (2) of 37 CFR 1.47(a) for Mr. Hall is also not yet met.

Concerning item (4), in a supplemental response filed 09 December 2004, petitioner submitted a copy of a declaration but it is not clear whether the copy

submitted is the same declaration provided to Mr. Patton.

In the 09 December 2004 submission, petitioner claims that "Mr. Patton's signature page was received . . . ." Later, petitioner states that "[a]ttached hereto is the signature page of Mr. Patton along with the Rules 63 and 67 (37 C.F.R. §§ 1.63 and 1.67) Declaration and Power of Attorney previously submitted."

It appears that petitioner submitted a composite declaration consisting of pages of a declaration previously submitted and the signature page executed by Mr. Patton. This is not in compliance with 37 CFR 1.497(a) and (b). A complete copy of the declaration provided to Mr. Patton must be provided. For this reason, item (4) is not yet satisfied.

All of the requirements of 37 CFR 1.47(a) are not yet complete.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson

James Thomson
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28 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOERNER, SAUNDERS, DANIEL & ANDERSON
320 S. Boston, Suite 500
Tulsa, OK 74103

In re Application of	:	
HIRSCH, Gary Franklin *et al*	:	
U.S. Application No.: 10/491,015	:	
PCT No.: PCT/US02/30561	:	
Int. Filing Date: 25 September 2002	:	**DECISION**
Priority Date: 26 September 2001	:	
Attorney's Docket No.: 016061.01	:	
For: DYE REMOVAL FROM DENIM SCRAP	:	
WITH A FORCED CIRCULATION KIER	:	

The decision is in response to applicants' "Request for Reconsideration of Decision on Petition (37 C.F.R. § 1.47(a))" filed on 27 May 2005.

BACKGROUND

On 18 March 2005, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Petitioners failed to meet item (2) and item (4) of 37 CFR 1.47(a). Petitioners were given two months to respond.

On 27 May 2005, the 37 CFR 1.47(b) applicant submitted a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a "Second Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor Gary F. Hirsch"; copies of documents dated 10 May 2005; a copy of a FedEx USA Airbill; a copy of a USPS Track & Confirm for Express Mail label No. EV399392688; and two declarations executed by Robert T. Patton and David M. Hall.

DISCUSSION

The prior decision was mailed 18 March 2005, not 25 March 2005 as stated in the renewed petition. Accordingly, a one-month extension fee of $120.00 is required. This fee has been charged to Deposit Account No. 06-0540 as authorized.

The decision dated 03 August 2004 determined that the petitioners failed to satisfy item (2) of 37 CFR 1.47(a) with regards to both nonsigning joint inventors, Gary F. Hirsch and David M. Hall. In addition, the declaration of joint inventor, Robert T. Patton, was not in compliance with 37 CFR 1.497(a) and (b). Hence, item (4) of 37 CFR 1.47(a) was also not satisfied.

In the renewed petition, petitioners have located Mr. Hall and submitted a declaration executed by Mr. Hall. Another executed declaration of Mr. Patton has also

been provided. These declarations comply with 37 CFR 1.497(a) and (b) and meet the requirements of item (4) of 37 CFR 1.47(a).

Concerning, item (2) of 37 CFR 1.47(a) for Mr. Hirsch, petitioners have submitted a statement of facts showing that Mr. Hirsch was sent a complete copy of the application on 10 May 2005 along with a declaration. A copy of the USPS Track/Confirm records provided indicate that the documents were received and signed by Mr. Hirsch on 11 May 2005. Copies of these documents were also provided in the renewed petition. Petitioners also claim that these documents were provided to Mr. Hirsch's lawyer on 10 May 2005. A copy of the "Sender's Copy" of the FedEx USA Airbill provided to the attorney was submitted in the renewed petition.

In the documents sent to Mr. Hirsch on 11 May 2005, petitioners requested that Mr. Hirsch return the executed declaration by 20 May 2005. Petitioners state that no response has been received from Mr. Hirsch or his counsel. This conduct is sufficient to show a refusal pursuant to section 409.03(d) of the MPEP and satisfies item (2) of 37 CFR 1.47(a).

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 September 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 27 May 2005.

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

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

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28 JUN 2005

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Gary F. Hirsch
1144 Moore Road,
Woodside, CA 94062

In re Application of
HIRSCH, Gary Franklin *et al*
U.S. Application No.: 10/491,015
PCT No.: PCT/US02/30561
Int. Filing Date: 25 September 2002
Priority Date: 26 September 2001
Attorney's Docket No.: 016061.01
For: DYE REMOVAL FROM DENIM SCRAP WITH A FORCED CIRCULATION KIER

Mr. Hirsch:

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

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

James Thomson

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12 JAN 2005

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In re Application of Vogt, et al. Serial No. : 10/491,029 PCT No.: PCT/EP02/10878 Int. Filing Date: 27 September 2002 Priority Date: 28 September 2001 Attorney's Docket No.: 4452-597PUS For: MULTIPLE CLUTCH SYSTEM, PARTICULARLY A DOUBLE CLUTCH SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to the petition filed 16 August 2004, requesting the Office to correct the national stage filing date. This has been treated as a petition under 37 CFR 1.10(d) requesting that the above-identified application be accorded a national stage filing date of 26 March 2004.

BACKGROUND

On 27 September 2002, applicants filed international application PCT/EP02/10878 that claimed priority of an earlier German application filed 28 September 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 April 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 28 March 2004.

In March 2004, applicants filed a letter for entry into the national stage in the United States which was accompanied by a copy of the International Application, an English translation of the application, a declaration and the basic national fee of $920. These papers were assigned U.S. Serial No. 10/491,029.

On 22 July 2004, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) indicating that the "Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date of Completion of All 35 U.S.C. 371 Requirements" was 29 March 2004.

On 16 August 2004, applicants filed the current petition requesting that the above-identified application be accorded a national stage completion date of 26 March 2004.

DISCUSSION

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that 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"; and
>
> (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 filed the petition promptly after realizing that the Office accorded a filing date other than the USPS deposit date. Further, the Express Mail mailing label number was placed on the transmittal letter included with the filing of the international application. Both the tracking information on the USPS web site and the date stamp on the Express Mail mailing label both indicate that the application was deposited in the Express Mail Post Office to Addressee service prior to the last scheduled pick up on 26 March 2004.

CONCLUSION

Applicant's petition to correct the national stage completion date to 26 March 2004 is hereby **GRANTED**.

The "NOTIFICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) mailed 22 July 2004, indicating that the "Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date of Completion of All 35 U.S.C. 371 Requirements" was 29 March 2004 is hereby **VACATED**.

This application is being forwarded to the National Stage for preparation of a corrected "NOTIFICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which will indicate that the "Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date of Completion of All 35 U.S.C. 371 Requirements" is 26 March 2004

Debra S. Brittingham
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Oblon, Spivak, Mcclelland Maier & Neustadt, L.L.P.
1940 Duke Street
Alexandria,VA 22314

In re Application of
IWATSUKI et al. :
Application No.: 10/491,042 :
PCT No.: PCT/IB02/04001 :
Int. Filing Date: 30 September 2002 : DECISION
Priority Date: 28 September 2001 :
Atty. Docket No.: 250445US2PCT :
For: SLIPPAGE DETECTION SYSTEM AND METHOD FOR CONTINUOUSLY VARIABLE TRANSMISSIONS :

This decision is issued in response to applicant's "Request for Corrected Official Filing Receipt" filed on 29 December 2006, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 26 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 were, *among others*, the requisite basic national fee; a copy of the international application; and an information disclosure statement.

In response to the Notification of Missing Requirements dated 22 July 2004, applicants filed an executed declaration of inventors on 11 August 2004. (The executed declaration was date stamped as received in the PTO on 11 August 2005.)

On 26 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 11 August 2005 and a 35 U.S.C. 371 completion date of 11 August 2005.

On 29 December 2006, applicant filed "Request for Corrected Official Filing Receipt."

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 11 August 2005 to 11 August 2004. The actual filing date of the present application is the international filing date, i.e., 30 September 2002. (See 35 U.S.C. 363) 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 were completed. (See MPEP §1895.01)

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 11 August 2004. A review of the present application reveals that the declaration and power of attorney filed 11 August 2004 is not located therein. Section 503 of the Manual of Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

The accompanying copy of the post card receipt identifies the application by applicant, application number, and docket number. The receipt itemizes, inter alia, a combined declaration and power of attorney; a copy of the Notification of Missing Requirements; and a supplemental application data sheet. The receipt is stamped "Rec'd PCT/PTO 11 AUG 2004" across its face and is sufficient to indicate that the combined declaration and power of attorney was in fact received in the Office on 11 August 2004. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 11 August 2004 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 11 August 2004. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's request under 37 CFR 1.181 for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 26 April 2006 is hereby **VACATED**.

The application has an international filing date of 30 September 2002 under 35 U.S.C. 363 and a date of 11 August 2004 under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of 11 August 2004 under 35 U.S.C. 371(c) and preparation and mailing of

a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of 11 August 2004.

Thereafter, this application will be referred to its appropriate Art Unit.

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22 SEP 2005

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William J. Sapone
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Bridgeport, CT 06605

In re Application of NIELSEN U.S. Application No.: 10/491,049 PCT No.: PCT/DK02/00673 Int. Filing Date: 08 October 2002 Priority Date: 18 October 2001 Atty Docket No.: 378/9-1917 For: A METHOD AND MEANS OF THAWING MEAT AND USE THEREOF	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's facsimile filing of 08 September 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 08 October 2002, applicant filed international application PCT/DK02/00673, which claimed priority of an earlier application filed 18 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office form the International Bureau on 24 April 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 April 2004.

On 29 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 Information Disclosure Statement.

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 and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date.

On 08 September 2005, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment, indicating that a signed declaration was filed on 02 April 2004.

DISCUSSION

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicant's present filing satisfies all three items above. Regarding item (3), although applicant has not supplied a statement from the individual who executed the certificate of mailing, an inspection of the filed transmittal letter finds that it was signed by counsel. The attorney of record has also signed the present petition attesting to the mailing of the subject declaration. As such, it is proper to accept applicant's response of 08 September 2005 as a copy of the original mailed on 02 April 2004.

Further, a review of the application file reveals that the filed declaration complies with 37 CFR 1.497(a)-(b). 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. Regarding the assigning of a 35 U.S.C. 371 date, 37 CFR 1.8(a) states that, "[T]he actual date of receipt will be used for all other purposes." As such, the actual date of the receipt of the last 35 U.S.C. 371 requirement is 08 September 2005.

CONCLUSION

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

The "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) mailed 23 July 2004 is hereby **VACATED**.

This application will be given an international application filing date of 08 October 2002 and a date of **08 September 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.

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05 OCT 2006

30448
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In re Application of EIPPER *et al* U.S. Application No.: 10/491,055 PCT No.: PCT/EP02/10679 Int. Filing Date: 25 September 2002 Priority Date: 28 September 2001 Attorney Docket No.: 3926.078 For: HIGH-STRENGTH DUPLEX/TRIPLEX STEEL FOR LIGHTWEIGHT CONSTRUCTION AND USE THEREOF	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

This decision is in response to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative a petition to revive under 37 CFR 1.137(b) filed on 10 August 2006.

BACKGROUND

On 29 March 2004, applicants submitted papers to enter the national stage of PCT/EP02/10679. The correspondence address on the transmittal letter was for the law firm, Pendorf & Cutliff in Tampa, Florida.

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 that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. The Form PCT/DO/EO/905 was mailed to a practitioner in Arizona. A two-month time limit in which to respond was set with extensions of time available.

On 11 July 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed due to the fact that no reply to the Form PCT/DO/EO/905 mailed 30 July 2004 was received.

On 12 July 2006, a Status Inquiry and Change of Correspondence Address were filed.

On 10 August 2006, applicants filed the subject petition to withdraw the holding of abandonment, or in the alternative a petition to revive along with an executed declaration.

DISCUSSION

Petitioners claim that the Form PCT/DO/EO/905 mailed 30 July 2004 was not received.

A review of the correspondence address on the Form PCT/DO/EO/905 shows that it was mailed to a practitioner in Arizona by mistake. Accordingly, it is clear that the Form PCT/DO/EO/905 mailed 30 July 2004 was never received by counsel in Florida.

No other showing is required.

CONCLUSION

For the reason noted above, applicants' petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment mailed 11 July 2006 is hereby **VACATED**.

The petition to revive fee of $1,500.00 paid in the alternative, has been credited back to Deposit Account No. 50-0951 as authorized.

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

James Thomson

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#5

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24 JUL 2006

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In re Application of	:	
KAIMAI, Takashi et al.	:	
Application No.: 10/491,060	:	DECISION ON
PCT No.: PCT/JP02/10140	:	
Int. Filing Date: 30 September 2002	:	PETITION
Priority Date: 02 October 2001	:	
Attorney Docket No.: 10939/2182	:	UNDER 37 CFR 1.181
For: PROCESS OIL AND METHOD FOR	:	
THE SAME	:	

This decision is in response to "Petition Under 37 C.F.R. §1.137," filed with the United States Patent and Trademark Office on 03 March 2006. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 30 September 2002, applicant filed international application PCT/GB02/01853, claiming a priority date of 02 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 April 2003. The deadline for entry into the national stage in the United States was 02 April 2004.

On 29 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 and an application data sheet.

On 03 September 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 to Phillips Electronics North America Corporation.

On 06 January 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely respond to the Notification of Missing Requirements.

On 03 March 2006, applicant submitted the instant petition accompanied by a declaration and docket records.

DISCUSSION

The Notification of Missing Requirements and Notification of Abandonment were mailed to the address listed at the bottom of the Transmittal Letter to the United States Designated/Elected Office. Under Office practice, the papers should have been mailed to the customer number listed on the application data sheet, which was linked to a different address.

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 03 September 2004 is **VACATED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 06 January 2006 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The date under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) is 03 March 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

28 SEP 2004

#5

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Karl F. Milde
Milde, Hoffberg & Macklin, LLP
10 Bank Street
Suite 460
White Plains, New York 10606

In re Application of		
HARTMAN et al.	:	
U.S. Application No. 10/491,062	:	
PCT No.: PCT/EP02/10923	:	
Int. Filing Date: 28 September 2002	:	NOTIFICATION REGARDING
Priority Date: 29 September 2001	:	DEFECTIVE TRANSLATION
Attorney Docket No.: HH300-KEM	:	
For: METHOD FOR THE PRODUCTION OF	:	
A FLEXIBLE BULK-MATERIAL	:	
CONTAINER AND		

This is in response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371 371 in the United Designated/Elected Office" filed in the United States Patent and Trademark Office on 26 July 2004.

BACKGROUND

On 28 September 2002, applicants filed international application PCT/EP02/10923 which claimed a priority date of 29 September 2001. 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 period for paying the basic national fee in the United States expired 30 months from the priority date, 29 March 2004.

On 29 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); an English translation of the international application; and a preliminary amendment.

On 09 July 2004, applicants filed an executed declaration of inventors.

On 19 June 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 the number of claims in the International Application and the number of claims in the translation were not same. The notification set a two-month time limit in which to respond.

On 26 July 2004, applicants filed "Response to Notification of Missing Requirements under 35 U.S.C. 371 371 in the United Designated/Elected Office."

NOTIFICATION

Applicants state in the present response that "applicant enclose herewith a copy of the PTO-1390 indicating that the English translation was mailed on March 29, 2004 . . . the claims in the International Application has eight claims and the English translation also has eight claims." However, the published international application (WO03/029109) has sixteen (16) claims whereas the English translation of the international application has only eight (8) claims. Therefore, the translation of the international application filed on 29 March 2004 and 24 June 2004 are defective.

CONCLUSION

A proper response must be filed within **ONE MONTH** from the mail date of this decision and must include an English translation of the international application in compliance with 37 CFR 1.495(c)(1). No extensions of this time limit may be obtained under 37 CFR 1.136(a), but the period for response set forth in the Notification of Missing Requirements mailed 19 June 2004 may be extended up to a maximum of five months.

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

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

Enclosure: Published International application (WO03/029109)

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

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Jinghai Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7592309	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,077	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

OCT 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jochen Grimminger, et al.	:	
Application No. 10/491,081	:	DECISION ON PETITION
Filed: March 29, 2004	:	TO WITHDRAW
Attorney Docket No. 449122070900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/491,081	10/15/2004	Jochen Grimminger	118744-136

CONFIRMATION NO. 6555

POA ACCEPTANCE LETTER

29177
BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO, IL 60690

OC000000026369295

Date Mailed: 10/19/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2007.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/491,081	10/15/2004	Jochen Grimminger	449122070900

CONFIRMATION NO. 6555

POWER OF ATTORNEY NOTICE

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

OC000000026369294

Date Mailed: 10/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Jochen Grimminger et al.	:	
Application No. 10/491,082	:	DECISION ON PETITION
Filed: March 29, 2004	:	TO WITHDRAW
Attorney Docket No. 449122071200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL J STRIKER
103 EAST NECK ROAD
HUNTINGTON, NY 11743

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Klaus Pflueger, et al. :
Application No. 10/491,092 : ON PETITION
Filed: March 29, 2004 :
Attorney Docket No. 2936 :

This is a decision in response to the petition, filed October 30, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment was included with the petition filed on October 30, 2008. 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)(II)(A)(2).

---

[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 delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[3]

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

[3] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/491,092	PFLUEGER ET AL.	
	Examiner	Art Unit	
	KARL I.E. TAMAI	2834	

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

THE REPLY FILED 30 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *6* 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: *1-6,8 and 9*.
   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: _____.

/ Karl I.E. Tamai /
Primary Examiner
Art Unit: 2834

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103 EAST NECK ROAD
HUNTINGTON, NY 11743

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APR 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Klaus Pflueger, et al.	:	
Application No. 10/491,092	:	ON PETITION
Filed: September 27, 2002	:	
Attorney Docket No. SS3275USNA	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 25, 2009, to revive the above-identified application.

A review of the record discloses that this application became abandoned for failure to timely reply to the final Office action mailed January 10, 2008. A Notice of Abandonment was mailed on July 28, 2008. In response, on October 30, 2008, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed January 30, 2009. On February 25, 2009, the present petition was filed, including a Request of Continued Examination (RCE) under 37 CFR 1.114.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

This application is being referred to Technology Center AU 2834 for processing of the RCE filed February 25, 2009 in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Gary Nabel	: DECISION ON REQUEST FOR
Patent Number	: 7635688	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,121	: 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 **796** 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.

05 JAN 2005

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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David J. Cushing
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20037-3213

In re Application of	:	
FAURE, et al.	:	
U.S. Application No.: 10/491,147	:	DECISION ON PETITION
PCT No.: PCT/FR02/03280	:	
Int. Filing Date: 26 September 2002	:	UNDER 37 CFR 1.497(d)
Priority Date: 27 September 2001	:	
Attorney's Docket No.: Q80721	:	
For: A SYSTEM FOR OPTICAL DEMULTIPLEXING WAVELENGTH BANDS	:	

This decision is in response to applicant's papers filed 05 November 2004 in the United States Patent and Trademark Office (USPTO). The papers are being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 26 September 2002, applicant filed international application PCT/FR02/03280, which claimed priority of an earlier application filed 27 September 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 March 2004.

On 26 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); an English translation of the international application and an executed combined declaration and power of attorney.

On 06 August 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) as the filed declaration did not comply because an additional inventor was listed who did not appear on the published international application. 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 05 November 2004, applicant responded with the present petition accompanied by signed statements from the added inventor and the assignee, Alcatel.

DISCUSSION

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

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

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

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

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

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

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

As Item (3), applicant has provided payment of the $130.00 petition fee.

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

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

CONCLUSION

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

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 26 September 2002 and a date of **26 March 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WILLIAM R. EVANS
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28 WEST 61ST STREET
NEW YORK, NY 10023

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SEP 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,125,447 :
Issue Date: October 24, 2006 :
Application No. 10/491,158 : DECISION ON PETITION
Filed: August 24, 2004 :
Attorney Docket No. U 015100-5 :

This is a decision on the petition under 37 CFR 3.81(b), filed December 11, 2006, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

27 JUL 2004

#3

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Allen S. Melser
Jacobson Holman PLLC
400 7th Street N.W., Suite 600
Washington, D.C. 20004

In re Application of	:	
DUNS, Mark	:	
Application No.: 10/491,162	:	DECISION ON PETITION
PCT No.: PCT/GB02/03966	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 30 August 2002	:	
Priority Date: 30 August 2001	:	
Attorney Docket No.: P69631US0	:	
For: PROCESS AND APPARATUS FOR CONTINUOUSLY APPLYING AN EXTERNAL COATING TO A PIPE	:	

The petition to revive under 37 CFR 1.137(b) filed 30 March 2004in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being 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 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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WASHINGTON, DC 20006-1021

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OFFICE OF PETITIONS

In re Application of :
Yoshihiro Higuchi et al :
Application No. 10/491,167 : ON PETITION
Filed: September 2, 2004 :
Attorney Docket No. 2004-0498A :

This is a decision on the petition under 37 CFR 1.313(c), filed November 16, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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

13 JUL 2004

#4

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LEGAL DEPARTMENT
INCYTE CORPORATION
3160 PORTER DRIVE
PALO ALTO, CA 94304

In re Application of YANG et al.	:	DECISION ON
Application No.: 10/491,183	:	
PCT No.: PCT/US02/31096	:	PETITION
Int. Filing: 26 September 2002	:	
Priority Date: 28 September 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: PF-1214 USN	:	
For: ENZYMES	:	

This is a decision on applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Ann E. Gorvad, filed in the United States Patent and Trademark Office (USPTO) on 29 March 2004.

BACKGROUND

On 26 March 2004, applicant filed a transmittal letter requesting entry into the national stage along with a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Ann E. Gorvad. Applicant alleges that Ms. Gorvad refuses to sign the application. The petition included authorization to charge the requisite petition fee, a statement of facts regarding Ann E. Gorvad's refusal to sign and a declaration signed by the 37 CFR 1.47(a) applicants.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner satisfied Items (1), (3) and (4).

With respect to item (2), Petitioner provides a Declaration of Lisa A. McDill, Junior Patent Specialist at Incyte Corporation. However, the statement of Ms. McDill is unsigned. MPEP Section 409.03(d) (p.400-28) clearly states that "[t]he statement of facts must be signed, where at all possible by a person having firsthand knowledge of the facts recited therein." The signed declaration of Ms. McDill is required for consideration of the petition under 37 CFR 1.47(a).

Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, 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

Telephone: (703) 306-5467

19 NOV 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

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LEGAL DEPARTMENT
INCYTE CORPORATION
3160 PORTER DRIVE
PALO ALTO, CA 94304

In re Application of YANG et al.	DECISION ON
Application No.: 10/491,183	
PCT No.: PCT/US02/31096	RENEWED PETITION
Int. Filing: 26 September 2002	
Priority Date: 28 September 2001	UNDER 37 CFR 1.47(a)
Attorney Docket No.:039386-1273	
For: ENZYMES	

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Ann E. Gorvad, filed in the United States Patent and Trademark Office (USPTO) on 13 September 2004.

BACKGROUND

On 26 March 2004, applicant filed a transmittal letter requesting entry into the national stage along with a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Ann E. Gorvad. Applicant alleges that Ms. Gorvad refuses to sign the application. The petition included authorization to charge the requisite petition fee, a statement of facts regarding Ann E. Gorvad's refusal to sign and a declaration signed by the 37 CFR 1.47(a) applicants.

On 13 July 2004, a decision dismissing applicant's petition under 37 CFR 1.47(a) was mailed to applicant indicating that the declaration of Lisa A. McDill submitted as proof of the non-signing inventor's refusal was unsigned and thus, unacceptable.

On 13 September 2004, applicant submitted the instant 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 non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1), (3) and (4).

With respect to item (2), Petitioner provides the signed Declaration of Lisa A. McDill, Junior Patent Specialist at Incyte Corporation. Ms. McDill states, in pertinent part, that on 23 June 2003, she telephoned the number left by Ann E. Gorvad to request her signature on a Declaration. Ms. McDill left a message on the answering machine for Ms. Gorvad. No response

was received. On 24 June 2003, Ms. McDill sent a copy of the above identified application including a declaration to Ms. Gorvad's last known address via Federal Express. A copy of the letter and confirmation of delivery on 25 June 2003 was attached to the statement.

Further attempts by Ms. McDill include: a second telephone message left on 14 July 2003; an e-mail sent to Ms. Gorvad on 17 July 2003 (copy attached); a second set of correspondence sent on 13 August 2003 via Federal Express (copy of correspondence and tracking shipment showing delivery 14 August 2003); a third telephone message left on 19 August 2003; a letter sent on 08 September 2003 via facsimile with facsimile confirmation; and a third set of correspondence sent on 04 November 2003 via Federal Express delivered on 05 November 2003. Ms McDill states that Ms. Gorvad has not responded to either her correspondence or telephone calls. Applicant has provided sufficient evidence that Ann E. Gorvad's conduct constitutes a refusal to sign the application. Thus, item (2) is satisfied.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, the petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 29 March 2004. The application has an international filing date of 26 September 2002 under 35 U.S.C. 363, and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 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 respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (521) 272-3286

19 NOV 2004

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ANN E. GORVAD
2519 SYLVAN STREET
BELLINGHAM, WA 98226

In re Application of YANG et al.	:	DECISION ON
Application No.: 10/491,183	:	
PCT No.: PCT/US02/31096	:	RENEWED PETITION
Int. Filing: 26 September 2002	:	
Priority Date: 28 September 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.:PF -1214USN	:	
For: ENZYMES	:	

Dear Ms. Gorvad:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

LEGAL DEPARTMENT
INCYTE CORPORATION
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PALO ALTO, CA 94304

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Takayuki Oniki	: DECISION ON REQUEST FOR
Patent Number	: 7648363	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,191	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **590** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

14 JUN 2006

United States Patent and Trademark Office

#8

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

In re Application of	:	
Stitou et al.	:	
Application No. 10/491,196	:	
PCT No.: PCT/FR03/02217	:	
Int. Filing Date: 11 July 2003	:	DECISION
Priority Date: 24 July 2002	:	
Atty. Docket No.: 032013-115	:	
For: Refrigeration Installation	:	
And Method Using A	:	
Reversible Sorption System	:	

This is in response to the correspondence filed on 03 February 2006, which is being treated as a renewed submission under 37 CFR 1.42.

DISCUSSION

In a Communication mailed on 23 November 2005, the declaration of the inventors filed on 27 October 2005 was not accepted under 37 CFR 1.42 (without prejudice) because

> Further examination of the papers filed on 27 October 2005 reveals that counsel indicates that "his heirs have signed on his behalf as the heirs did not agree to designate an executor or legal representative." The individuals listed as "The five heirs" are Bruno Spinner, Caroline Spinner Brossard, Anne Christel Spinner Kohler, Camille Spinner and Martin Spinner. Counsel further indicates that "two of the heirs, Camille Spinner and Martin Spinner, are minors. Therefore, their mother Nathalie Mazet has signed on their behalf." However, the declaration itself does not indicate the relationship between the heirs and the deceased joint inventor (specifically, whether they are in fact "all the heirs"). Furthermore, the declaration properly includes "the facts which the inventor would have been required to state, but it neither clearly names nor includes the "citizenship, residence and mailing address of the legal representative" (heirs) as required under 37 CFR 1.497(b)(2). It is also not clear whether Nathalie Mazet should be listed as an heir, in view of the fact that she is described as the mother of two of the heirs. For these reasons, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

In response, applicants have filed a newly executed declaration which names the complete inventive entity. The declaration is signed on behalf of deceased joint inventor Bernard Spinner by Bruno Spinner, Caroline Spinner Brossard, Anne Christel Spinner Kohler and Martin Spinner in the capacity of "heir and legal representative to Bernard Spinner," and by Nathalie Mazet in the capacity of "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner." The declaration provides citizenship, residence and mailing address information for each of the five individuals signing on behalf of Bernard Spinner, but it does not provide "the facts which the inventor would have been required to state" in that Bernard Spinner's citizenship, residence and mailing address information is not listed. Furthermore, there

is no affirmative statement that the five signatories (or some other set of individuals) constitute "all" of the heirs of Bernard Spinner. This issue is exacerbated by the fact that applicants have not adequately clarified the status of Nathalie Mazet. Counsel states that "Camille Spinner is a minor, and her mother, Nathalie Mazet, has signed on her behalf." It is still not clear whether Ms. Mazet is also an heir, and in what capacity she has signed the declaration (is she representing her own interests as an heir, or Camille Spinner's interests as an heir, when she signs on behalf of Bernard Spinner?). The language "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner" is particularly unclear; should this be interpreted as "signing on behalf of minor heir Camille Spinner as Camille Spinner's mother, Camille Spinner being a daughter of Bernard Spinner, an heir of Bernard Spinner, and a legal representative of Bernard Spinner, and Nathalie Mazet (also being/not being) an heir and a legal representative of Bernard Spinner"? It is noted that the mere fact that a particular heir may be a minor does not preclude that heir from signing a declaration of inventorship, so long as he or she understands the declaration. As such, it may be appropriate for Camille Spinner to execute the declaration herself. For these reasons, it would not be appropriate to accept the declaration under 37 CFR 1.42 at this time.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within either (a) the remainder of the period for response to the Communication mailed on 23 November 2005 (as extended under 37 CFR 1.136(a)), or (b) a **NON-EXTENDABLE ONE (1) MONTH TIME PERIOD** from the mail date of this decision, whichever expires later. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). 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.

Richard Cole
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

27 SEP 2006

United States Patent and Trademark Office

#10

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

In re Application of	:	
Stitou et al.	:	
Application No. 10/491,196	:	
PCT No.: PCT/FR03/02217	:	
Int. Filing Date: 11 July 2003	:	DECISION
Priority Date: 24 July 2002	:	
Atty. Docket No.: 032013-115	:	
For: Refrigeration Installation	:	
And Method Using A	:	
Reversible Sorption System	:	

This is in response to the correspondence filed on 23 June 2006, which is being treated as a renewed submission under 37 CFR 1.42.

DISCUSSION

In a Decision mailed on 14 June 2006, the correspondence filed on 03 February 2006 was treated, and the declaration of the inventors filed on 27 October 2005 was not accepted under 37 CFR 1.42 (without prejudice) because

> ... applicants have filed a newly executed declaration which names the complete inventive entity. The declaration is signed on behalf of deceased joint inventor Bernard Spinner by Bruno Spinner, Caroline Spinner Brossard, Anne Christel Spinner Kohler and Martin Spinner in the capacity of "heir and legal representative to Bernard Spinner," and by Nathalie Mazet in the capacity of "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner." The declaration provides citizenship, residence and mailing address information for each of the five individuals signing on behalf of Bernard Spinner, but it does not provide "the facts which the inventor would have been required to state" in that Bernard Spinner's citizenship, residence and mailing address information is not listed. Furthermore, there is no affirmative statement that the five signatories (or some other set of individuals) constitute "all" of the heirs of Bernard Spinner. This issue is exacerbated by the fact that applicants have not adequately clarified the status of Nathalie Mazet. Counsel states that "Camille Spinner is a minor, and her mother, Nathalie Mazet, has signed on her behalf." It is still not clear whether Ms. Mazet is also an heir, and in what capacity she has signed the declaration (is she representing her own interests as an heir, or Camille Spinner's interests as an heir, when she signs on behalf of Bernard Spinner?). The language "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner" is particularly unclear; should this be interpreted as "signing on behalf of minor heir Camille Spinner as Camille Spinner's mother, Camille Spinner being a daughter of Bernard Spinner, an heir of Bernard Spinner, and a legal representative of Bernard Spinner, and Nathalie Mazet (also being/not being) an heir and a legal representative of Bernard

Spinner"? It is noted that the mere fact that a particular heir may be a minor does not preclude that heir from signing a declaration of inventorship, so long as he or she understands the declaration. As such, it may be appropriate for Camille Spinner to execute the declaration herself.

In response, applicants have clarified that Nathalie Mazet is not herself an heir, but has signed on behalf of the minor heir Camille Spinner. Applicants have also submitted a declaration document naming the entire inventive entity, signed on behalf of Bernard Spinner by the complete set of individuals indicated to be heirs (with the exception that Nathalie Mazet signed for Camille Spinner), and providing the necessary information for each of the heirs. Along with this, applicants have submitted another declaration document which also nominates the complete inventive entity, provides the necessary information pertaining to Bernard Spinner, and which is signed by the other joint inventors in addition to what appear the signatures of Mr. Spinner's heirs. Accordingly, it would now be appropriate to grant the requested relief under 37 CFR 1.42.

CONCLUSION

The declaration filed on 23 June 2006 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 **23 June 2006**.

Richard Cole
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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OFFICE OF PETITIONS

In re Application of :
Mitvh Levin et al. :
Application No. 10/491,200 :
Filed: March 26, 2004 :
Attorney Docket No. 1130-12PCT US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 23, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 16, 2007 for failure to timely reply to the Final Office Action mailed July 13, 2007, which set a three month period for response. Accordingly, a Notice of Abandonment was mailed April 2, 2008.

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

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney and address change documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

---

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

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

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

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

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

This matter is being referred to Technology Center 2614 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

ALAN CHAN
225 BROADWAY, SUITE 700
NY, NY 10007

14 JUL 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEGAL DEPARTMENT
INCYTE CORPORATION
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PALO ALTO, CA 94304

In re Application of AZIMZAI et al. Application No.: 10/491,213 PCT No.: PCT/US02/31095 Int. Filing: 26 September 2002 Priority Date: 28 September 2001 Attorney Docket No.: PF-1213 USN For: PROTEINS ASSOCIATED WITH CELL GROWTH, DIFFERENTIATION, AND DEATH	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Ann E. Gorvad, filed in the United States Patent and Trademark Office (USPTO) on 26 March 2004.

BACKGROUND

On 26 March 2004, applicant filed a transmittal letter requesting entry into the national stage along with a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Ann E. Gorvad. Applicant alleges that Ms. Gorvad refuses to sign the application. The petition included authorization to charge the requisite petition fee, a statement of facts regarding Ann E. Gorvad's refusal to sign and a declaration signed by the 37 CFR 1.47(a) applicants.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner satisfied Item (1) with the submission of the $130 petition fee and Item (3) with a statement of the nonsigning inventor's last known address.

With respect to item (2), Petitioner provides a Declaration of Lisa a. McDill, Junior Patent Specialist at Incyte Corporation. Ms. McDill states, in pertinent part, that on 23 June 2003, she telephoned the number left by Ann E. Gorvad to request her signature on a Declaration. No response was received. On 24 June 2003, Ms. McDill sent a copy of the above identified application including a declaration to Ms. Gorvad's last known address via Federal Express. A copy of the letter and confirmation of delivery on 25 June 2003 was attached to the statement.

Further attempts by Ms. McDill include: a second telephone message left on 14 July 2003; an e-mail sent to Ms. Gorvad on 17 July 2003 (copy attached); a second set of correspondence sent on 13 August 2003 via Federal Express (copy of correspondence and tracking shipment showing delivery 14 August 2003); a third telephone message left on 19 August 2003; a letter sent on 08 September 2003 via facsimile with facsimile confirmation; and a third letter sent on 04 November 2003 via Federal Express delivered on 05 November 2003. Ms McDill states that Ms. Gorvad has not responded to either her correspondence or telephone calls. Applicant has provided sufficient evidence that Ann E. Gorvad's conduct constitutes a refusal to sign the application. Thus, item (2) is satisfied.

With regard to Item (3), the declaration submitted 26 March 2004 is executed by Karen K. Kareht, rather than by inventor identified in the published PCT application, Karen K. Sapperstein. The application file contains a communication directed to the International Bureau requesting a change in the inventor's name under Rule 92*bis*. In recent communication with the International Bureau (IB) dated 06 July 2004, the IB has indicated that no request for a change under PCT Rule 92bis has been received. Nor has a communication from the International Bureau (Form IB/306) accepting the change been located in the file. Thus, the declaration, indicating Karen K. Kareht as an inventor, is not in compliance with 37 CFR 1.497 and is not acceptable. Accordingly, it is not appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, the 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

Telephone: (703) 306-5467

08 OCT 2004

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LEGAL DEPARTMENT
INCYTE CORPORATION
3160 PORTER DRIVE
PALO ALTO, CA 94304

In re Application of AZIMZAI et al. Application No.: 10/491,213 PCT No.: PCT/US02/31095 Int. Filing: 26 September 2002 Priority Date: 28 September 2001 Attorney Docket No.: PF-1213 USN For: PROTEINS ASSOCIATED WITH CELL GROWTH, DIFFERENTIATION, AND DEATH	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicant's petition under 37 CFR 1.182 to accept the declaration executed by Karen K. Kareht, filed in the United States Patent and Trademark Office (USPTO) on 13 September 2004. The petition is also treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Ann E. Gorvad.

BACKGROUND

On 26 March 2004, applicant filed a transmittal letter requesting entry into the national stage along with a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Ann E. Gorvad. Applicant alleges that Ms. Gorvad refuses to sign the application. The petition included authorization to charge the requisite petition fee, a statement of facts regarding Ann E. Gorvad's refusal to sign and a declaration signed by the 37 CFR 1.47(a) applicants.

On 14 July 2004, a decision dismissing the petition under 37 CFR 1.47(a) was mailed to applicant indicating that the declaration was not in compliance with 37 CFR 1.497(a) and (b) and unacceptable because it was executed by Karen K. Kareht, rather than by inventor identified in the published PCT application, Karen K. Sapperstein.

On 13 September 2004, applicant filed the instant petition under 37 CFR 1.182 to correct the name of inventor Stephanie K. Sapperstein to Karen K. Kareht.

DISCUSSION

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 Stephanie K. Sapperstein regarding her respective change of name. Applicant submitted her signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names of applicant, Stephanie K. Sapperstein and Stephanie K. Kareht. Thus, the evidence is sufficient to conclude that Stephanie K. Sapperstein changed her name by court order to Stephanie K. Kareht. The declaration, indicating Karen K. Kareht as an inventor, is now in compliance with 37 CFR 1.497 and acceptable

With regard to applicant's petition under 37 CFR §1.47(a), the petition must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1), (3) and (4) above.

With regard to Item (3), the declaration submitted 26 March 2004 was executed by Karen K. Kareht, rather than by inventor identified in the published PCT application, Karen K. Sapperstein. As set forth above, with the granting of the petition under 37 CFR 1.182, the declaration, indicating Karen K. Kareht as an inventor, is in compliance with 37 CFR 1.497(a) and (b) and is acceptable. Accordingly, it is now appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name is **GRANTED**.

The declaration submitted on 26 March 2004 is acceptable as filed. For the above reasons, the petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 26 March 2004. The application has an international filing date of 26 September 2002 under 35 U.S.C. 363, and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 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 respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

08 OCT 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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ANN E. GORVAD
2519 SYLVAN STREET
BELLINGHAM, WA 98226

In re Application of AZIMZAI et al. Application No.: 10/491,213 PCT No.: PCT/US02/31095 Int. Filing: 26 September 2002 Priority Date: 28 September 2001 Attorney Docket No.: PF-1213 USN For: PROTEINS ASSOCIATED WITH CELL GROWTH, DIFFERENTIATION, AND DEATH	DECISION ON PETITION UNDER 37 CFR 1.182

Dear Ms. Gorvad:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

LEGAL DEPARTMENT
INCYTE CORPORATION
3160 PORTER DRIVE
PALO ALTO, CA 94304

29 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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John S. Pratt
KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530

In re Application of	:	
Roger Tredegar BIGGS	:	
Application No.: 10/491,237	:	DECISION ON
PCT No.: PCT/GB02/04181	:	PETITION
Int. Filing Date: 13 September 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 15 September 2001	:	
Attorney Docket No.: 41577/299139	:	
For: SUB-SURFACE RADAR IMAGING	:	

The petition to revive under 37 CFR 1.137(b) filed 29 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

On 13 September 2002, applicant filed international application PCT/GB02/04181, which claimed priority of an earlier British application filed 15 September 2001. The application became abandoned as to the national stage in the United States because the basic national fee was not paid to the USPTO prior to the 30 months statutory time period, which expired at midnight on 15 March 2004.

On 29 March 2004, applicant filed the present petition, requesting revival of the international application under the provisions of 37 CFR 1.137(b) along with the appropriate petition fee as required by 37 CFR 1.17(m).

A review of the application papers filed 29 March 2004 reveals that all of the requirements of 37 CFR 1.137(b) for revival have been submitted. 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 under 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the declaration of the inventor filed with the petition reveals that it is in compliance with 37 CFR 1.497. Since the declaration was submitted after 30 months from the priority date claimed of 15 September 2001, a $130.00 surcharge (fee code 1617) for filing an oath or declaration after 30 months, has been charged to Counsel's Deposit Account No. 11-0855, as authorized in the Transmittal Letter accompanying this petition.

Applicant's claim for priority is acknowledged. The application has an international filing date of **13 September 2002** under 35 U.S.C. 363 and a date of **29 March 2004** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/RC:hn

Tel: (703) 308-6508

29 JUL 200

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Alexandria, VA 22313-1450
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John S. Pratt
KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530

In re Application of	:	
Roger Tredegar BIGGS	:	
Application No.: 10/491,237	:	DECISION ON
PCT No.: PCT/GB02/04181	:	PETITION
Int. Filing Date: 13 September 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 15 September 2001	:	
Attorney Docket No.: 41577/299139	:	
For: SUB-SURFACE RADAR IMAGING	:	

The petition to revive under 37 CFR 1.137(b) filed 29 March 2004 in the above-captioned application is hereby **GRANTED** as follows:

On 13 September 2002, applicant filed international application PCT/GB02/04181, which claimed priority of an earlier British application filed 15 September 2001. The application became abandoned as to the national stage in the United States because the basic national fee was not paid to the USPTO prior to the 30 months statutory time period, which expired at midnight on 15 March 2004.

On 29 March 2004, applicant filed the present petition, requesting revival of the international application under the provisions of 37 CFR 1.137(b) along with the appropriate petition fee as required by 37 CFR 1.17(m).

A review of the application papers filed 29 March 2004 reveals that all of the requirements of 37 CFR 1.137(b) for revival have been submitted. 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 under 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the declaration of the inventor filed with the petition reveals that it is in compliance with 37 CFR 1.497. Since the declaration was submitted after 30 months from the priority date claimed of 15 September 2001, a $130.00 surcharge (fee code 1617) for filing an oath or declaration after 30 months, has been charged to Counsel's Deposit Account No. 11-0855, as authorized in the Transmittal Letter accompanying this petition.

RECEIVED
AUG 02 2004

KS Docketing
Docketed for:
Entered on: 8-2-04
Initials: KDH
Previously Entered:

Applicant's claim for priority is acknowledged. The application has an international filing date of **13 September 2002** under 35 U.S.C. 363 and a date of **29 March 2004** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/RC:hn

Tel: (703) 308-6508

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date : March 09, 2007

Patent No. : 7,160,607 B2
Inventor(s) : Tanimoto
Issued : Jan. 9, 2007
Title : **LAMINATE DAMPING BASE MATERIAL, AND DAMPING STRUCTURE WITH STACK OF THIS BASE MATERIAL**
Docket No. : 00631.00.0067

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Angelo J Bufalino
Vedder Price Kaufman & Kammholz
222 North LaSalle Street
Chicago IL 60601

CBN/eme

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070823

DATE : August 23, 2007

TO SPE OF : ART UNIT 1773

SUBJECT : Request for Certificate of Correction on Patent No.: 7,160,607

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Carol Chaney **Art Unit** 1773

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P.O. Box 1450
Alexandria, VA 22313-1450
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ANGELO J. BUFALINO
VEDDER PRICE KAUFMAN & KAMMHOLZ
222 NORTH LASALLE STREET
CHICAGO IL 60601

COPY MAILED

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OFFICE OF PETITIONS

In re Patent No. 7,160,607	:	
Issue Date: January 9, 2007	:	
Application No. 10/491,247	:	ON PETITION
Filed: March 30, 2004	:	
Attorney Docket No. 00631000067	:	

This is a decision on the petition filed June 19, 2007 and supplemented on December 3, 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 the Certificate of Correction signed by the USPTO on November 20, 2007, indicates the spelling of the second assignee as Toshio Klmura instead of **Toshio Kimura** as requested in the certificate of correction received February 16, 2007 and resubmitted on June 19, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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In re Application of :
Wolfgang Gaschler et al. :
Serial Number: 10/491,279 : DECISION
Filed: March 31, 2004 : ON
For: Method For Producing Aqueous Styrene-Butadiene-IV Polymer Dispersions : PETITION

This is in response to a petition filed under 37 CFR 1.181 filed November 3, 2006, requesting a refund of the fees for the extensions of time paid in connection with amendment which is in response to the Office Action entered May 3, 2006. Applicant asserts that the Office Action was never received and was not discovered until after October 3, 2006, when Applicants filed a status Request. Applicants further request for relief from any reduction of patent term adjustment for a patent that my issue from the above-identified application.

DECISION

The request for reconsideration is **GRANTED**.

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Office letter mailed May 3, 2006.

A refund may be given for any fee paid by mistake or in excess of that required. The date for the starting period for response of the Office Action will be changed to October 3, 2006. Applicant's response on November 3, 2006 was timely and there was no need to pay extension of time fees in connection with the amendment filed. The fees will be refunded to Account 15-0030.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

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OFFICE OF PETITIONS

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET, SUITE 1000
IRVINE, CA 92614-6232

In re Application of	:	
Norvell Douglas Seele Jr.	:	
Application No. 10/491,297	:	DECISION ON PETITION
Filed: April 23, 2004	:	TO WITHDRAW
Attorney Docket No. 100964.0001US	:	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, 2009.

The request is **APPROVED**.

The request was signed by Robert D. Fish on behalf of the practitioners of record associated with Customer Number: 24392.

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

All future correspondence will be directed to inventor Norvell Douglas Seele Jr. at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Norvell Douglas Seele
20753 Satinwood Drive
Saugus, CA 91350

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
10/491,297	04/23/2004	Norvell Douglas Seele Jr	100964.0001US

CONFIRMATION NO. 1769

POWER OF ATTORNEY NOTICE

OC000000038540439

24392
FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1000
Irvine, CA 92614-6232

Date Mailed: 11/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2009.

- 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.

/idingle/

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/491,297	04/23/2004	Norvell Douglas Seele Jr	100964.0001US

CONFIRMATION NO. 1769

Norvell Douglas Seele
20753 Satinwood Drive
Saugus, CA 91350

POA ACCEPTANCE LETTER

OC000000038540495

Date Mailed: 11/02/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2009.

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.

/idingle/

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

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HENRY D. COLEMAN
COLEMAN SUDOL SAPONE,P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Thiru Vanniasinkam et al.
Application No. 10/491,300
Filed: May 6, 2004
Attorney Docket No. A20-061

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed April 2, 2007. A response was filed July 2, 2007 but by Advisory Action of July 25, 2007, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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

This matter is being referred to Technology Center 1645 for processing of the RCE.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Henry D. Coleman
Coleman Sudol Sapone,P.C.
714 Colorado Avenue
Bridgeport CT 06605-1601

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OFFICE OF PETITIONS

In re Application of	:	
Thiru Vanniasinkam, et al.	:	
Application No. 10/491,300	:	ON PETITION
Filed: May 6, 2004	:	
Attorney Docket No. A20-061	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 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 January 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 10, 2009. The Notice of Abandonment was mailed October 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 Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1645 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.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO IL 60606

In re Application of	:	
Tindall, et al.	:	
Application No. 10/491,312	:	DECISION
Filed 17 August, 2004	:	
Attorney Docket No. 1209.70219	:	

This is a decision on the petitions, filed on 7 October, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 20 March, 2008, with reply due absent extension of time on or before 20 June, 2008.

The instant application went abandoned by operation of law after midnight 20 March, 2008.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 7 October, 2008, Petitioner filed a petition with fee pursuant to 37 C.F.R. §1.137(b) and averred unintentional delay, a reply in the form of an amendment, and made the statement of unintentional delay. For reasons unexplained Petitioner also filed a terminal disclaimer "[t]o Accompany a Petition," however no fee was charged and the disclaimer and fee do not appear to be required at this writing.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

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

[2] 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.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU (TC/AU) 3643 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605

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JUN 09 2008

In re Patent No. 7,128,087	:	
Issue Date: October 31. 2006	:	
Application No. 10/491,316	:	ON PETITION
Filed: April 12, 2004	:	
Attorney Docket No. 378/9-1927	:	

This is a decision on the petition filed December 3, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The petition fee of $130 and Certificate of Correction fee of $100 has been charged to petitioner's deposit account No. 04-0838.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. 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.

Carl Friedman
Petitions Examiner
Office of Petitions

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

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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OFFICE OF PETITIONS

In re Application of	:	
Mark Anderson	:	DECISION ON APPLICATION
Application No. 10/491,323	:	FOR
Filed: July 16, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 22000.0117U3	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C.§ 154(b) 37 C.F.R. § 1.705," filed November 1, 2007. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from three hundred thirty-nine days (339) to three hundred seventy-two (372) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred seventy-two (372)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 2, 2007, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 339 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e). Applicants request that the patent term adjustment be corrected to 372 days. Applicants assert that the Office's

[1] PALM Records indicate that the Issue Fee payment was received on November 1, 2007.

delay pursuant to 37 C.F.R. § 1.703(a)(1) should be calculated as 374 days, not 341 days.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 339 days is incorrect. The record supports a conclusion that the restriction requirement mailed on August 23, 2006 was directed to another invention and another attorney as alleged by applicant. The August 23, 2006 restriction was withdrawn on September 13, 2006. A restriction requirement directed to this application and to the proper attorney was first mailed on September 25, 2006. Under the circumstances, it is appropriate to use the date of mailing of the second restriction requirement in calculating Office delay pursuant to 37 CFR 1.702(a)(1).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is three hundred seventy-two days (372) days (374) days of PTO delay, reduced by (2) days of Applicants delay.

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

Applicants are reminded that any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

The Publishing Division has been advised of this decision. The application is, thereby, being forwarded to the Publishing Division for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

16 AUG 2004

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LAW OFFICE OF JAY R. YABLON
910 Northumberland Drive
Schenectady, NY 12309-2814

In re Application of	:	
GIACAMAN, Miguel S.	:	
U.S. Application No.: 10/491,325	:	
PCT No.: PCT/US02/31639	:	**DECISION ON**
Int. Filing Date: 02 October 2002	:	**PETITION FOR REVIVAL**
Priority Date: 02 October 2001	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: GIACP008NAT	:	
For: FUEL-PUMP CONTROLLER	:	

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)" filed on 27 July 2004 is hereby **GRANTED** as follows:

The appropriate petition fee of $665.00 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 declaration in compliance with 37 CFR 1.137(a) and (b) was submitted with the national stage papers on 01 April 2004.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 02 October 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 July 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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Patent No. : 7,520,470 B2
Ser. No. : 10/491327
Inventor(s) : Lucchesini et al.
Issued : Apr. 21, 2009
Title : AIRCRAFT CONFIGURATION WITH IMPROVED AERODYNAMIC PERFORMANCE
Docket No. : 163-542

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: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

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PATENT & TRADEMARK OFFICE

163-542 Cofc/#

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK OPERATION

U.S. Patent No.	:	7,520,470
Granted	:	April 21, 2009
Applicant(s)	:	Lucchesini, Massimo et al.
For	:	AIRCRAFT CONFIGURATION WITH IMPROVED AERODYNAMIC PERFORMANCE
Based on	:	Serial No. 10/491,327
Filed	:	September 23, 2004

New York, NY 10036
September 11, 2009

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

REQUEST FOR A CERTIFICATE OF CORRECTION

Sir:

It is respectfully requested that a Certificate of Correction be issued for Patent No. 7,520,470, issued on April 21, 2009. The patentee encloses herewith two copies of request for a Certificate of Correction with the requested change enclosed.

09/15/2009 CHGUYEN2 00000029 10491327
01 FC:1999 30.00 OP

09/15/2009 CHGUYEN2 00000039 7520470
01 FC:1999 30.00 OP

I hereby certify that this correspondence is being deposited with the United States Postal Service on **September 11, 2009** as first class mail in an envelope addressed to:

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

Kenneth F. Florek
Registration No. 33,173

Applicants' failure to include the correct assignee's name on the PTOL-85 submission was inadvertent. Additionally, a copy of the Notice of Recordation of Assignment, showing that assignment to Alenia Aermacchi S.P.A. of Italy was recorded at reel 019077/frame 0814, is submitted herewith.

Applicants previously submitted a check for $100.00 toward the fee for this Request for a Certificate of Correction. An additional check for $30.00 is enclosed for the deficiency. Additionally, the Commissioner is authorized to charge any additional fee required or credit any overpayment in connection with this request to Deposit Account No. 08-1540.

Applicants respectfully request that this request be granted and that the file be forwarded to the Certificate of Corrections Branch for entry of the enclosed Certificate of Correction. Favorable consideration and issuance of a Certificate of Correction is respectfully requested.

Respectfully submitted,

Kenneth F. Florek
Reg. No. 33,173

MAILING ADDRESS:
HEDMAN & COSTIGAN, P.C.
1185 Avenue of the Americas
New York, NY 10036
(212) 302-8989

Transaction List

Search by

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- Name/Number: 7520470
- Attrny Docket No:
- Deposit Account No.:

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OK | Adjustment Detail | Authorization Detail | Print Screen

Applicants' failure to include the correct assignee's name on the PTOL-85 submission was inadvertent. Additionally, a copy of the Notice of Recordation of Assignment, showing that assignment to Alenia Aermacchi S.P.A. of Italy was recorded at reel 019077/frame 0814, is submitted herewith.

Applicants previously submitted a check for $100.00 toward the fee for this Request for a Certificate of Correction. An additional check for $30.00 is enclosed for the deficiency. Additionally, the Commissioner is authorized to charge any additional fee required or credit any overpayment in connection with this request to Deposit Account No. 08-1540.

Applicants respectfully request that this request be granted and that the file be forwarded to the Certificate of Corrections Branch for entry of the enclosed Certificate of Correction. Favorable consideration and issuance of a Certificate of Correction is respectfully requested.

Respectfully submitted,

Kenneth F. Florek
Reg. No. 33,173

MAILING ADDRESS:
HEDMAN & COSTIGAN, P.C.
1185 Avenue of the Americas
New York, NY 10036
(212) 302-8989

TO:JAMES V. COSTIGAN, ESQ. OMPANY:HEDMAN & COSTIGAN, P.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

MARCH 29, 2007

PTAS

700317793A

700317793A

JAMES V. COSTIGAN, ESQ.
HEDMAN & COSTIGAN, P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2646

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFIIM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 03/28/2007 REEL/FRAME: 019077/0814
NUMBER OF PAGES: 7

BRIEF: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
AERMACCHI S.P.A. DOC DATE: 07/13/2006

ASSIGNEE:
ALENIA AERMACCHI S.P.A.
VIA ING. PAOLO FORESIO 1
VENEGONO SUPERIORE
VARESE, ITALY I-21040

SERIAL NUMBER: 10491327 FILING DATE: 09/23/2004
PATENT NUMBER: ISSUE DATE:
TITLE: AIRCRAFT CONFIGURATION WITH IMPROVED AERODYNAMIC PERFORMANCE

SERIAL NUMBER: 10043551 FILING DATE: 01/11/2002
PATENT NUMBER: 6830796 ISSUE DATE: 12/14/2004
TITLE: ACOUSTIC BOARD WITH AN IMPROVED COMPOSITE STRUCTURE

TO:JAMES V. COSTIGAN, ESQ. COMPANY:HEDMAN & COSTIGAN, P.

019077/0814 PAGE 2

SERIAL NUMBER: 29158941
PATENT NUMBER: D471853
TITLE: TRAINER AIRCRAFT

FILING DATE: 04/11/2002
ISSUE DATE: 03/18/2003

TARA WASHINGTON, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

03/28/2007
700317793

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Form PTO-1595
(Rev. 10/02)
OMB No. 0651-0027 (exp. 6/30/2005)

RECORDATION FORM COVER SHEET
PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
163-371

Tab settings ⇨ ⇨ ⇨ ▼ ▼ ▼ ▼ ▼ ▼ ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
AERMACCHI S.p.A.

Additional name(s) of conveying party(ies) attached? ☐ Yes ☑ No

2. Name and address of receiving party(ies)
Name: ALENIA AERMACCHI S.p.A.
Internal Address:
Street Address: Via Ing. Paolo Foresio 1
Venegono Superiore
City: Varese State: Italy Zip: I-21040

Additional name(s) & address(es) attached? ☐ Yes ☑ No

3. Nature of conveyance:
☐ Assignment ☐ Merger
☐ Security Agreement ☑ Change of Name
☐ Other

Execution Date: July 13, 2006

4. Application number(s) or patent number(s):
If this document is being filed together with a new application, the execution date of the application is:
A. Patent Application No.(s) 10/491,327
B. Patent No.(s) 6,830,796; D471,853

Additional numbers attached? ☐ Yes ☑ No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: James V. Costigan, Esq.
Internal Address:
Street Address: HEDMAN & COSTIGAN, P.C.
1185 Avenue of the Americas
City: New York State: NY Zip: 10036-2646

6. Total number of applications and patents involved: 3

7. Total fee (37 CFR 3.41)..... $ 120.00
☐ Enclosed
☑ Authorized to be charged to deposit account

8. Deposit account number:
08-1540
Charge any additional fees and credit any over payment to the deposit account.

DO NOT USE THIS SPACE

9. Signature.

James V. Costigan Reg. No. 25,669
Name of Person Signing

Signature

March 28, 2007
Date

Total number of pages including cover sheet, attachments, and documents: 7

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231

GH $120.00 08:1540 10491327

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RADER FISHMAN & GRAUER
1233 20TH STREET NW
SUITE 501
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	:
Takeshi Inaba	:
Application No. 10/491,331	: DECISION GRANTING PETITION
Filed: April 1, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SON-2804	:

This is a decision on the petition, filed May 31, 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 May 3, 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 2839 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).*

15 JUL 2004

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745 South 23rd Street
Arlington, VA 22202

In re Application of: LANTRUA, et al.
U.S. Application No.: 10/491,344
PCT No.: PCT/FR02/03311
Int'l Filing Date: 27 September 2002
Priority Date: 01 October 2001
Attorney's Docket No.: 0509-1065
For: DEVICE FOR LISTENING TO VOICE AND/OR MUSICAL SIGNALS BY MEANS OF CRANIAL BONE TRANSMISSION

DECISION ON SUBMISSION UNDER 37 CFR 1.42

This decision is in response to applicants' submission on 01 April 2004 of a declaration executed on behalf of deceased inventor Patrick BAUGUIL by his legal representatives, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 27 September 2002, applicants filed international application PCT/FR02/03311 which designated the United States and claimed a priority date of 01 October 2001. On 11 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 submission of the basic national fee was thirty months from the priority date, i.e., 01 April 2004.

On 01 April 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee, a translation of the international application into English, and a declaration executed by the surviving inventor and on behalf of the deceased inventor by his legal representatives. The declaration is considered herein under 37 CFR 1.42.

DISCUSSION

The declaration filed on 01 April 2004 was executed on behalf of deceased inventor Patrick BAUGIL by his legal representatives Nicole BAUGUIL and Adrien BAUGIL. 37 CFR 1.42 states in part:

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

37 CFR 1.497(b)(2) states:

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

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for **both** the deceased inventor and the legal representative.

Here, the declaration filed 01 April 2004 specifically identifies Nicole BAUGUIL and Adrien BAUGUIL as the "legal representatives" of the deceased inventor, and it includes separate citizenship, mailing address, and residence information for the deceased inventor and the legal representatives. Accordingly, the declaration complies with the requirements of 37 CFR 1.42 and 1.497(b)(2) with respect to the signature provided on behalf of the deceased inventor.

CONCLUSION

Based on the above, the application is accorded status under 37 CFR 1.42. The declaration filed 01 April 2004 is therefore acceptable under 37 CFR 1.497.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 01 April 2004.

Richard M. Ross
PCT Petitions Attorney
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15 JUL 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
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In re Application of JURVELIN, Jukka *et al* U.S. Application No.: 10/491,345 PCT No.: PCT/FI02/00334 Int. Filing Date: 23 April 2002 Priority Date: 23 April 2001 Attorney Docket No.: 3505-1017 For: METHOD AND MEASURING DEVICE FOR EXAMINING A COMPRESSIBLE TISSUE	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed with the national stage papers on 01 April 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.

A signed oath or declaration was not included with any of the papers submitted.

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) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

23 JUN 2004

#3

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Anthony M. Santini, Esq.
AVON PRODUCTS, INC.
Avon Place
Suffern, NY 10901-5605

In re Application of FONSECA et al. Application No.:10/491,354 PCT Application No.: PCT/US02/28948 International Filing Date: 11 September 2002 Priority Date: 12 September 2001 Attorney Docket No.: FR09U-US For: COATED METAL COMPONENTS IN AEROSOL VALVES AND DISPENSING PUMPS FOR METAL-SENSITIVE COMPOSITIONS AND PROCESS OF COATING THE COMPONENTS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival Of An Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 26 March 2004 is **GRANTED**.

BACKGROUND

On 11 September 2002, applicants filed international application PCT/US02/28948. The international application claims a priority date of 12 September 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 12 March 2004 Applicants missed this deadline.

On 26 March 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) and the appropriate petition fee. A copy of the international application as required by 35 U.S.C. 371(c)(2) was communicated to the PTO from the international bureau. A declaration of the inventors as required by 35 U.S.C. 371(c)(4) has not been filed.

DISCUSSION

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

application was filed prior to June 8, 1995). Payment of the basic national fee and submission of a copy of the international application would constitute a proper reply for entry into the national stage.

The statement in the applicants' 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). Applicants' payment of the basic national fee and the international bureau's submission of a copy of the international application satisfy the requirements 37 CFR 1.137(b)(1). Payment of the petition fee satisfies 37 CFR 1.137(b)(2) . A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notice of Missing Requirements (PCT/DO/EO/905) indicating that a signed oath or declaration of the inventors and the surcharge set forth in 37 CFR 1.492(e) are due.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
Detailee
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15 JUL 2004

#3

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INCYTE CORPORATION
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
YUE, Henry *et al*	:	
U.S. Application No.: 10/491,355	:	
PCT No.: PCT/US02/32032	:	**DECISION ON**
Int. Filing Date: 03 October 2002	:	**PETITION UNDER**
Priority Date: 03 October 2001	:	**37 CFR 1.47(a)**
Attorney Docket No.: PF-1217 USN	:	
For: SECRETED PROTEINS	:	

This is a decision on applicants' "Petition under 37 C.F.R. §1.47(a)" filed with the national stage papers on 30 March 2004.

BACKGROUND

On 30 March 2004, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the instant petition; a "Declaration of Lisa A. McDill"; the $130.00 petition fee; a letter dated 24 June 2003; copies of FedEx shipping labels; a copy of an email dated 17 July 2003; a copy of a letter dated 13 August 2003; a copy of a facsimile letter dated 08 September 2003; and a copy of a letter dated 04 November 2003.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located; (3) a statement of the last known address of the non-signing joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

With regards to item (3), the last known address of the nonsigning joint inventor, Ann E. Gorvad, is listed as:

2519 Sylvan Street
Bellingham, WA 98226

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by twenty-five of the twenty-six joint inventors on behalf of the nonsigning joint inventor.

This declaration meets the requirements of section 409.03(a) of the MPEP.

Hence, items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that Ms. Ann E. Gorvad "either refuses join in the application by signing an oath or declaration complying with 37 C.F.R. § 1.63 or cannot be found or reached after diligent effort." The 37 CFR 1.47(a) applicant included a declaration by Ms. McDill and copies of letters and email sent to the nonsigning joint inventor's last known address and email address.

A careful review of the evidence presented shows that it is not clear whether Ms. Gorvad has received any of the documentation. Therefore, the petition under 37 CFR 1.47(a) is treated as if the joint inventor cannot be located.

Applicants' burden in proving that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

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

In this case, the declaration by Ms. McDill does list the steps she used to try to contact Ms. Gorvad. These steps included mailing several letters, sending an email to a personal email address given by Ms. Gorvad to Incyte Corporation, and even sending a facsimile to a facsimile number given to Incyte Corporation by Ms. Gorvad prior to her termination. The 37 CFR 1.47(a) applicant included documentary evidence as required by the MPEP above.

However, there is no indication that petitioner attempted to verify whether Ann E. Gorvad lived at that address where the letters, email and facsimile were sent. The FedEx receipt signed by "B Gorvad" is not sufficient to show that Ann Gorvad lives there. Petitioner should attempt to verify whether Ann E. Gorvad lives at the address listed above. Using the internet would be <u>sufficient</u>. This is not an extraordinary effort

and should be attempted to demonstrate that a diligent effort was made to locate the nonsigning joint inventor.

For this reason noted above, item (2) of 37 CFR 1.47(a) is not satisfied.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

07 DEC 2004
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INCYTE CORPORATION
3160 Porter Drive
Palo Alto, CA 94304

In re Application of YUE, Henry *et al* U.S. Application No.: 10/491,355 PCT No.: PCT/US02/32032 Int. Filing Date: 03 October 2002 Priority Date: 03 October 2001 Attorney Docket No.: PF-1217 USN For: SECRETED PROTEINS	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Request for Reconsideration of Applicants' Petition Under 37 CFR 1.47(a)" filed on 14 September 2004.

BACKGROUND

On 15 July 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 14 September 2004, applicants filed the instant renewed petition which was accompanied by, *inter alia*, copies of three internet searches and a copy of a Lexis search for Ann E. Gorvad.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor. Items (1), (3) and (4) of 37 CFR 1.47(a) were completed in the original petition.

Regarding item (2), the 37 CFR 1.47(a) provided sufficient documentation that several letters were mailed to the last known address of Ann E. Gorvad. However, there was no evidence shown that an attempt was made to verify whether the nonsigning joint inventor still lived at that address. The 37 CFR 1.47(a) applicant was requested to make such an attempt.

In the renewed petition, the 37 CFR 1.47(a) applicants included documentary evidence that three internet searches were performed that "failed to produce any

alternate address for joint inventor Ann E. Gorvad." Applicants also searched the Lexis database "P-TRAK Person Locator" which listed the address for the nonsigning joint inventor as 2519 Sylvan Street, Bellingham, WA 98226. This is the address listed as the last known address of Ms. Gorvad in the initial petition. A review of the evidence provided in the renewed petition corroborates this. The 37 CFR 1.47(a) has now shown that a diligent effort was made to locate the nonsigning joint inventor. As such, item (2) of 37 CFR 1.47(a) is satisfied.

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 October 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 30 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 inventor at his last known address of record and will be published in the Official Gazette.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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07 DEC 2004

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Ann E. Gorvad
2519 Sylvan Street
Bellingham, WA 98226

In re Application of
YUE, Henry *et al*
U.S. Application No.: 10/491,355
PCT No.: PCT/US02/32032
Int. Filing Date: 03 October 2002
Priority Date: 03 October 2001
Attorney Docket No.: PF-1217 USN
For: SECRETED PROTEINS

Ms. Gorvad:

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

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

James Thomson
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Office of PCT Legal Administration

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INCYTE CORPORATION
3160 Porter Drive
Palo Alto, CA 94304

08 SEP 2004

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MONROE CT 06468

In re Application of	:	
SARKKINEN et al.	:	
Application No.: 10/491,359	:	DECISION ON
PCT No.: PCT/EP01/09657	:	
Int. Filing Date: 27 August 2001	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 915-007.080	:	37 CFR 1.137(b)
For: TRANSMISSION OF DATA WITHIN A	:	
COMMUNICATIONS NETWORK	:	

This decision is in response to applicants' submission filed 26 March 2004.

BACKGROUND

On 21 August 2001, applicants filed international application PCT/EP01/09657 which designated the U.S. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 February 2004 (21 February 2004 being a Saturday).

On 26 March 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 and a "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 26 March 2004.

As to item (2), applicant submitted the petition fee on 26 March 2004.

As to item (3), petitioner's statement that "[t]he entire delay in filing for entry into the U.S. national stage within 30 months of the PCT filing date was unintentional" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

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

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath later than thirty months from the priority date are required.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
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Telephone: (703) 308-2066 (until 30 September 2004)
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Telephone: (571) 272-3301 (after 01 October 2004)
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Paper No.

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SEP 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,169,443	:	DECISION ON REQUEST
Kishimoto et al.	:	FOR RECONSIDERATION OF
Issue Date: January 30, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/491,370	:	and
Filed: March 31, 2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. Q80839	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed February 21, 2007. Patentees request that the Patent Term Adjustment indicated on the patent be corrected from twenty-one (21) days to at least one hundred five (105) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ONE HUNDRED FIVE (105) days.

On January 30, 2007, the above-identified application matured into U.S. Patent No. 7,169,443. The instant request for reconsideration filed February 21, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 21 days. Patentees dispute the reduction of 84 days associated with the filing of a Request for Acknowledgment and Acceptance of the Formal Drawings under 37 C.F.R. § 1.312 after the mailing of the notice of allowance. Patentees argue that no reduction is warranted, as applicant acted quickly and responsibly to respond to an erroneous USPTO request for corrected drawings, which were

previously submitted on June 15, 2004 prior to the October 3, 2006 date of the notice of allowance.

Patentees' contention is well taken. The record supports a conclusion that the originally submitted formal drawings were misplaced by the Office. (With the submission of the drawings on November 8, 2006, applicants submitted a copy of their itemized and date-stamped postcard acknowledging receipt by the Office of 3 sheets of formal drawings on June 15, 2004). Under the circumstances of the resubmission, it is appropriate to treat the drawings as submitted on June 15, 2004, prior to the mailing of the notice of allowance on October 3, 2006. Furthermore, submission of formal drawings on June 15, 2004 would not constitute a failure to engage.

Moreover, the Director has determined that the submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). See MPEP 2732 and *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The request filed November 8, 2006 also constituted a request to correct an error in the notice of allowability.

For these reasons, the resubmission of the drawings on November 8, 2006 did not constitute a failure to engage within the meaning of 37 CFR 1.704(c)(10).

In view thereof, the revised patent term adjustment indicated on the patent should be one hundred five (105) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a

certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED FIVE** (105) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,169,443 B2

DATED : January 30, 2007

INVENTOR(S) : Kishimoto 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 (21) days

Delete the phrase "by 21" and insert – by 105 days--

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UNITED STATES DEPARTMENT OF COMMERCE
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William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Takashi Furukawa	: DECISION ON REQUEST FOR
Patent Number	: 7609942	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,378	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1610** 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.

0 9 DEC 2004
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In re Application of	:	
LO TORCO, Salvatore	:	
Application No.: 10/491,392	:	DECISION ON PETITION
PCT No.: PCT/EP02/10529	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 19 September 2002	:	
Priority Date: 02 October 2001	:	
Attorney Docket No.: 450117-04960	:	
For: WORD DATABASE COMPRESSION	:	

This decision is in response to applicant's "Petition under 37 CFR 1.47" filed 25 October 2004, which is being treated as a petition under 37 CFR 1.47(b) to accept the application without the signature of inventor, Salvatore Lo Turco.

BACKGROUND

On 19 September 2002, applicants filed international application PCT/EP02/10529, which claimed a priority date of 02 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 April 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, 02 April 2004.

On 31 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 a copy of the international application.

On 22 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 must be filed. The notification set a two-month time limit in which to respond.

On 25 October 2004, applicant filed "Petition under 37 CFR 1.47" and a petition for a one-month extension of time under 37 CFR 1.136(a).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1);(3);(4) and (6). However, items (2) and (5) have not been satisfied.

Regarding item (2) above, petitioner states that Salvatore Lo Turco 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 the 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 Salvatore Lo Turco. No documentary evidence to support the refusal or the attempt was provided in the petition.

In order to meet the requirements of 37 CFR 1.47(b) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Salvatore Lo Turco and when such papers were sent and that Salvatore Lo Turco has subsequently refused to execute the application. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, electronic mailings, telegrams, etc., should be supplied with the declaration.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b)

> applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Regarding item (5), petitioner has not demonstrated that applicant has a propriety interest in the invention. Petitioner has provided a "Declaration Establishing Proprietary Interest by Person Signing on Behalf of Omitted Inventor" but fails to provide documentary evidence that the 37 CFR 1.47(b) has a propriety interest in the invention. As stated above, when an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Salvatore Lo Turco under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)."

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

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15 FEB 2005

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15 FEB 2005

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In re Application of	:	
LO TORCO, Salvatore	:	
Application No.: 10/491,392	:	DECISION ON PETITION
PCT No.: PCT/EP02/10529	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 19 September 2002	:	
Priority Date: 02 October 2001	:	
Attorney Docket No.: 450117-04960	:	
For: WORD DATABASE COMPRESSION	:	

This decision is in response to applicant's "Response to Decision on Petition under under 37 CFR 1.47(b) and Supplemental Submission" filed 21 January 2005, which is being treated as a renewed petition under 37 CFR 1.47(b) to accept the application without the signature of inventor, Salvatore Lo Turco.

BACKGROUND

On 19 September 2002, applicants filed international application PCT/EP02/10529, which claimed a priority date of 02 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 April 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, 02 April 2004.

On 31 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 a copy of the international application.

On 22 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 must be filed. The notification set a two-month time limit in which to respond.

On 25 October 2004, applicant filed "Petition under 37 CFR 1.47" and a petition for a one-month extension of time under 37 CFR 1.136(a). In a decision dated 09 December 2004, applicant's petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 21 January 2005, applicant filed the present renewed under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1);(2);(3);(4) and (6). However, item(5) has not been satisfied.

A review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Salvatore Lo Turco. The steps taken by Jessica Voigt are sufficient to show that the missing inventors refuse to execute the application.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Regarding item (5), petitioner has not demonstrated that applicant has a propriety interest in the invention. Petitioner has provided an executed agreement between Salvatore Lo Turco and Sony International (Europe) GmbH, however, it is not clear if this agreement is directed to the instant application. It appears that the agreement is for an invention entitled "Software Algorithm." Further, petitioner has provided a "Declaration Establishing Proprietary Interest by Person Signing on Behalf of Omitted Inventor" but fails to provide documentary evidence that the 37 CFR 1.47(b) has a propriety interest in the invention, i.e., assignment; employment agreement; or legal memorandum. As stated above, when an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Salvatore Lo Turco under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)."

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

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05 JUL 2005

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In re Application of	:	
LO TORCO, Salvatore	:	
Application No.: 10/491,392	:	DECISION ON PETITION
PCT No.: PCT/EP02/10529	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 19 September 2002	:	
Priority Date: 02 October 2001	:	
Attorney Docket No.: 450117-04960	:	
For: WORD DATABASE COMPRESSION	:	

This decision is in response to applicant's "Response to Decision on Petition under under 37 CFR 1.47(b) and Supplemental Submissions" filed 11 April 2005.

BACKGROUND

On 19 September 2002, applicant filed international application PCT/EP02/10529, which claimed a priority date of 02 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 April 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, 02 April 2004.

On 31 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 a copy of the international application.

On 22 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 must be filed. The notification set a two-month time limit in which to respond.

On 25 October 2004, applicant filed "Petition under 37 CFR 1.47" and a petition for a one-month extension of time under 37 CFR 1.136(a). In a decision dated 09 December 2004, applicant's petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 21 January 2005, applicant filed "Renewed Petition under 37 CFR 1.47." In a decision dated 15 February 2005, applicant's petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 11 April 2005, applicant filed present "Renewed Petition under 37 CFR 1.47."

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1) through(6).

A review of the materials submitted with the renewed petition reveals that applicant has now submitted materials which, taken in combination with the previous submissions, satisfy all the requirements for a grantable petition under 37 CFR 1.47(b).

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application will be given an international filing date of 19 September 2002 under 35 U.S.C. 363, and a date of **25 October 2004** under 35 U.S.C. 371(c).

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

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

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

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05 JUL 2005

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Salvatore Lo Torco
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80335 Munich
Germany

In re Application of
LO TORCO, Salvatore
Application No.: 10/491,392
PCT No.: PCT/EP02/10529
Int. Filing Date: 19 September 2002
Priority Date: 02 October 2001
Attorney Docket No.: 450117-04960
For: WORD DATABASE COMPRESSION

Dear Mr. Lo Torco:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

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

Anthony Smith

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Counsel of Record:
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14 JAN 2005

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In re Application of	:	
MARTIN et al.	:	
Application No.: 10/491,399	:	
PCT No.: PCT/IB02/03938	:	DECISION
Int. Filing Date: 11 September 2002	:	
Priority Date: 10 October 2001	:	
Attorney Docket No.: P/63163	:	
For: MICROWAVE CIRCULATOR WITH	:	
DEFORMABLE MEMBRANE	:	

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed 01 November 2004.

BACKGROUND

On 11 September 2002, applicant filed international application PCT/IB02/03938, which designated the United States and claimed a priority date of 10 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 April 2004 (10 April 2004 being a Saturday).

On 31 March 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 23 July 2004, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an 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 was required.

On 22 September 2004, applicants submitted a response to the NOTIFICATION OF MISSING REQUIREMENTS, which was accompanied by a declaration of inventors and the surcharge under 37 CFR 1.492(e).

On 05 October 2004, the USPTO issued a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the declaration of inventors

submitted with the 22 September 2004 submission was not in compliance with 37 CFR 1.497(a)-(b) because the third inventor's last name is different on the declaration than on the International Application.

On 01 November 2004, applicants submitted the instant "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE".

DISCUSSION

The response filed 01 November 2004 concerns the correction of an inventor's name and notifies the Office that the correct spelling of the inventor's name is as follows: **Konstantin BEIS** as indicated in the declaration filed 22 September 2004 rather than Konstantin Bets, as is indicated in the international application. The response explains that the international application contained an incorrect spelling concerning the name of Mr. Beis.

Applicants' explanation of the difference in the spelling of Konstantin Beis's name is accepted and noted for the record.

The response filed 01 November 2004 is a proper reply to the notification mailed 05 October 2004. The declaration of inventors filed 22 September 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

Daniel Stemmer
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2 1 DEC 2004

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In re Application of	:	
NESSET, Derek et al.	:	
Application No.: 10/491,400	:	DECISION
PCT No.: PCT/GB02/04125	:	
Int. Filing Date: 11 September 2002	:	ON PETITION UNDER
Priority Date: 09 October 2001	:	
Docket No.: P/63101	:	37 CFR 1.47(a)
For: OPTICAL SIGNAL TRANSMISSION	:	

This is a decision on applicants' "Petition Under Rule 47(a)," filed in the United States Patent and Trademark Office (USPTO) on 18 October 2004.

BACKGROUND

On 11 September 2002, applicants filed international application PCT/GB02/04125, which claimed a priority date of 09 October 2001. A copy of the international application was transmitted to the Office by the International Bureau on 17 April 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 April 2004.

On 31 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 23 July 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 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, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a one month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (3) have been met. (1) The petition fee of $130 has been paid. (3) The petition lists the last known addresses of non-signing inventor Derek Nesset as 3 The Courtyard; Norton Grange; Little Kineton, CV35 0DP; United Kingdom.

Item (2) has not been satisfied. The petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or declaration). MPEP §409.03(d). Mr. Collier's statement indicates that Mrs. Paula Clarke mailed the application papers to Mr. Nesset. The circumstances of the presentation of the application papers should be set forth in a statement of facts, signed by someone with first hand knowledge of the facts recited therein. MPEP 409.03(d). Mr. Nesset does not have the requisite first hand knowledge. Further, documentary evidence of the presentation with a full copy of the application papers and subsequent refusal must be furnished. Applicants indicate that only the 06 August 2004 mailing included a copy of the application papers.

Item (4) has not been satisfied. The declaration appears to have been pieced together from separately executed declarations to create a single composite declaration. Pages 2 of 3 and 3 of 3 list the same inventors, but were separately executed. Applicants must submit the declaration as executed by the inventors and it must comply with 37 CFR 1.497(a)-(b). Additionally, the declarations contain numerous non-dated, non-initialed alterations in different inks. New oaths or declarations executed by the inventors are required. 37 CFR 1.52(c)(1).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

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31 MAR 2005

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Kirschstein Ottinger Israel & Schiffmiller PC
489 Fifth Avenue
New York NY 10017

In re Application of	:	
NESSET, Derek et al.	:	
Application No.: 10/491,400	:	DECISION
PCT No.: PCT/GB02/04125	:	
Int. Filing Date: 11 September 2002	:	ON PETITION UNDER
Priority Date: 09 October 2001	:	
Docket No.: P/63101	:	37 CFR 1.47(a)
For: OPTICAL SIGNAL TRANSMISSION	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 18 February 2005.

BACKGROUND

On 11 September 2002, applicants filed international application PCT/GB02/04125, which claimed a priority date of 09 October 2001. A copy of the international application was transmitted to the Office by the International Bureau on 17 April 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 April 2004.

On 31 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 23 July 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 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, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a one month extension of time.

On 21 December 2004, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 18 February 2005, applicants submitted the instant renewed petition.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (3) were previously satisfied.

Item (2) has now been satisfied. Applicants indicate that they presented the non-signing inventor with a complete copy of the application papers and the non-signing inventor refused to sign.

Item (4) has been satisfied. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **18 March 2005**.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

31 MAR 2005

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Derek Nesset
3 The Courtyard
Norton Grange
Little Kineton, CV35 0DP
United Kingdom

In re Application of
NESSET, Derek et al.
Application No.: 10/491,400
PCT No.: PCT/GB02/04125
Int. Filing Date: 11 September 2002
Priority Date: 09 October 2001
Docket No.: P/63101
For: OPTICAL SIGNAL TRANSMISSION

Dear Mr. Nesset:

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

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

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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489 Fifth Avenue
New York NY 10017

27 APR 2005

#10

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New York NY 10017

In re Application of	:	
NESSET, Derek et al.	:	
Application No.: 10/491,400	:	DECISION
PCT No.: PCT/GB02/04125	:	
Int. Filing Date: 11 September 2002	:	ON PETITION UNDER
Priority Date: 09 October 2001	:	
Docket No.: P/63101	:	37 CFR 1.47(a)
For: OPTICAL SIGNAL TRANSMISSION	:	

This is a corrected decision on applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 18 February 2005. The 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date should have read 18 February 2005.

BACKGROUND

On 11 September 2002, applicants filed international application PCT/GB02/04125, which claimed a priority date of 09 October 2001. A copy of the international application was transmitted to the Office by the International Bureau on 17 April 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 April 2004.

On 31 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 23 July 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 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, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a one month extension of time.

On 21 December 2004, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 18 February 2005, applicants submitted a renewed petition.

On 31 March 2005, the Office mailed a Decision On Petition, granting applicants' petition under 37 CFR 1.47(a), but listing the incorrect 371 date.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application

papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1) and (3) were previously satisfied.

Item (2) has now been satisfied. Applicants indicate that they presented the non-signing inventor with a complete copy of the application papers and the non-signing inventor refused to sign.

Item (4) has been satisfied. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

To the extent that the 31 March 2005 decision listed the incorrect 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date, it is **VACATED**.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **18 February 2005**.

Erin M. Pender

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

Mail Date: 04/21/2010

Applicant	: Dominique Blanc	: DECISION ON REQUEST FOR
Patent Number	: 7644152	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,406	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1092** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

25 JAN 2005

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

In re Application of	:	
KUTCHINSKY et al.	:	DECISION
Application No.: 10/491,409	:	
PCT No.: PCT/DK02/00658	:	
Int. Filing Date: 02 October 2002	:	
Priority Date: 02 October 2001	:	
Attorney's Docket No.: 4528-0107PUS2	:	
For: SIEVE ELECTROOSMOTIC FLOW PUMP	:	

This is a decision in response to applicants' "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE" and "REQUEST FOR A CORRECTED OFFICIAL FILING RECEIPT", both of which were filed in the United States Patent and Trademark Office (USPTO) on 30 November 2004.

BACKGROUND

On 02 October 2002, applicants filed international application PCT/DK02/00658, which claimed a priority date of 02 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 April 2004.

On 01 April 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 the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 04 June 2004, applicants filed a declaration of inventors.

On 19 July 2004, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 July 2004, applicants filed another declaration of inventors.

On 09 August 2004, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according a 371(c)(1), (c)(2), and (c)(4) date of 27 July 2004.

On 30 November 2004, applicants submitted a "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE" requesting that the 35 USC 371(c)(1), (c)(2), and (c)(4) date be changed from 27 July 2004 to 04 June 2004.

On 30 November 2004, applicants also submitted a "REQUEST FOR A CORRECTED OFFICIAL FILING RECEIPT" again requesting that the filing date be changed from 27 July 2004 to 04 June 2004 and that the word "ELECTROOOSMOTIC" in the title be changed to --ELECTROOSMOTIC--.

DISCUSSION

The declaration of inventors filed 04 June 2004 is in compliance with 37 CFR 1.497(a)-(b). Accordingly, the 35 USC 371(c)(1), (c)(2), and (c)(4) date should be changed from 27 July 2004 to 04 June 2004. The NOTIFICATION OF ACCEPTANCE mailed 09 August 2004 is hereby VACATED. Additionally, the word "ELECTROOOSMOTIC" in the title should be changed to --ELECTROOSMOTIC--.

CONCLUSION

For the reasons set forth above, the NOTIFICATION OF ACCEPTANCE mailed 09 August 2004 is VACATED.

For the reasons set forth above, applicants' request for a corrected NOTIFICATION OF ACCEPTANCE is **GRANTED**.

For the reasons set forth above, applicants' request for a corrected filing receipt is **GRANTED**.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision, that is for (1) mailing of a corrected NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **04 June 20004** and (2) issuance of a corrected filing receipt with the word "ELECTROOOSMOTIC" in the title changed to --ELECTROOSMOTIC--.

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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
Toshihide Maeda et al	:	
Application No. 10/491,411	:	ON PETITION
Filed: April 1, 2004	:	
Attorney Docket No. 60188-784	:	

This is a decision on the petition, filed January 26, 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 20, 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 2879 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
Toshihide Maeda et al	:	
Application No. 10/491,411	:	ON PETITION
Filed: April 1, 2004	:	
Attorney Docket No. 60188-784	:	

This is a decision on the petition, filed January 26, 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 20, 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 2879 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/491,421	04/01/2004	Ulrich Endemann	52951	1652

26474 7590 02/10/2009
NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

EXAMINER
LEE, EDMUND H

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
02/10/2009	PAPER

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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wk

Mailed: 2/10/09

In re application of Endemann et al. Serial No. 10/491,421 Filed: April 1, 2004 For: Composite Part And Method For The Production Thereof	DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 to Withdraw Finality filed on January 30, 2009. Applicant makes a request for the withdrawal of the finality for the Office Action mailed January 27, 2009.

Applicants amended independent claim 1 and noted the support by referring to the specification on page 8, lines 16-17. The Office Action did not address this portion of the specification. The office action discusses a rejection of claims 1, 6-7, 10-17, 19, and 20 under 35 USC 112 (1).

Form PTOL-326 indicated that claims 1-7, 10-17, and 19-23 were rejected. The rejection of claims 2, 3, 4, 5, 21, 22, and 23 was not necessitated by the amendment filed February 26, 2008 nor discussed in the office action.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

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 petition for withdrawal of finality is **GRANTED**.

The Examiner will issue a new Office Action and PTOL-326, clarifying which claims is being rejected. The Office Action will also address the portion of the specification cited by applicant in support of the amendment.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael P. Byrne
NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

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FEB 0 8 2008

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 100 WEST TOWER
WASHINGTON, DC 10005

In re Application of:
Richard J. Williams
Serial No.: 10/491,422
Filed: April 1, 2004
Attorney Docket No.: 53582

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed September 13, 2007, requesting that the finality of the Office action of June 8, 2007 be withdrawn. The delay in responding to this petition is regretted.

BACKGROUND

The examiner mailed a non-final Office action on September 29, 2006 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-5 were pending and examined on their merits. The examiner set forth a rejection of claims 1-5 under 35 U.S.C. 102(b) as being anticipated by Michelotti (US5,808,150) and additionally set forth a rejection of claims 1-5 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Twist et al (US 4,482,626). The examiner additionally rejected claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Michelotti (US 5,808,150). The examiner indicated in this action that "Michelotti teaches a stabilized hydroxylamine composition comprising the compound triethylenetraamine hexaacetic acid" and "Twist et al teach a stabilized hydroxylamine composition comprising DPTA. See Table VI in column 17. The compound labeled DPTA is another name for diethylenetriaminepentaacetic acid." The examiner further stated that "Michelotti generally discloses stabilized compositions of hydroxylamine using the stabilizers ethylenebis (oxyethylenenitrilo) tetraacetic and diethylenetriaminepentaacetic acid." Thus, it is clear that the examiner rejected constituents (a), (b) and (c) in claims 1 and 4, those being diethylenetriaminepentaacetic acid, triethylenetraamine hexaacetic acid and diethylenetriaminepentaacetic acid.

In reply to the non-final Office action of September 29, 2006, applicant filed remarks and arguments, along with an amendment on March 29, 2007 which included the cancellation of claim 3 and amendments to claims 1 and 4. The amendment included the deletion of (a)-(c) (diethylenetriaminopentaacetic acid, triethylenetetraminehexaacetic acid and ethylenebis (oxyethylenenitrile) tetraacetic acid) of claims 1 and 4, respectfully.

On June 8, 2007, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 2, 4 and 5 were pending. The examiner rejected claims 1 and 4 under 35 U.S.C. 102(b) as being anticipated by Vincent et al (Chemical Abstract 1980: 67658; abstract of RD 188,043, 12-10-1979) and also rejected claims 1, 2, 4 and 5 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vincent et al (RD 188,043, 12-10-1979). With regard to the rejection of claims 1 and 4 under 35 U.S.C. 102(b) as being anticipated by Vincent et al., the examiner stated that "Vincent et al teach making a composition comprising hydroxylamine which is stabilized using compound 4,5-dihydroxy-1,3-benzenedisulfonic acid." This teaching of Vincent et al. was also used for the rejection of claims 1, 2, 4 and 5 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vincent et al (RD 188,043, 12-10-1979). Thus, it is clear that the examiner rejected the claims with regard to substituent (c); that being 4,5-dihydroxy-1,3-benzenedisulfonic acid.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on September 13, 2007, applicant argues that the amendment of March 29, 2007 did not necessitate the new ground of rejection raised by the examiner in the final Office action of June 8, 2007. Specifically, applicant argues that the amendment to claim 1 merely limited the scope of the Markush group and that the compound 4,5-dihydroxy-1,3-benzenedisulfonic acid was present in the Markush group of claim 1 prior to the march 29, 2007 amendment. Applicant cites the MPEP § 706.07(a):

> *...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).* (emphasis in original petition)

Applicant further recites the MPEP § 706.07(c):

> *Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action*

the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection..... in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. (emphasis in original petition)

Applicant thus additionally argues that because of the new grounds of rejections cited by the examiner in the final Office action of June 8, 2008, the applicant has been deprived of their right to a full and fair hearing on the issues of which they are entitled.

The provision of MPEP 904.2 that a search should cover the claimed subject matter and should also cover the disclosed features which might reasonably be expected to be claimed does not preclude an examiner from making the second or any subsequent Office action on the merits final if the Office action contains a new ground of rejection that was necessitated solely by applicant's amendment of the claims to eliminate an unpatentable alternative. 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:

> 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. However, *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). (MPEP § 706.07, emphasis added).

Therefore, the new rejections rendered by the examiner over 1, 2, 4 and 5 in the final Office action of June 8, 2007 did not preclude making the Office action final because it is decided that the examiner could not have reasonably foreseen how applicant would eventually amend these claims. It is further deemed that issues for appeal are clear.

Accordingly, applicant's arguments are not persuasive that the final Office action issued June 8, 2007 was premature and the finality of the Office action will 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.

John LeGuyader
Director, Technology Center 1600

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

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FEB 1 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,050,710	:	
Issued: May 23, 2006	:	
Application No. 10/491,432	:	ON PETITION
Filed: April 12, 2004	:	
Attorney Docket No. 251367US3PCT	:	

This is a decision on the petition under 37 CFR 1.182, filed May 29, 2007, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Petitioner submitted $130.00 towards the $400.00 petition fee. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C41 (FAX 571-273-9756)

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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
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ALEXANDRIA, VA 22314

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DEC 16 2005

OFFICE OF PETITIONS

In re Application of :
Masayuki Sekiguchi et al :
Application No. 10/491,433 : DECISION GRANTING PETITION
Filed: April 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 251801USOPCT :

This is a decision on the petition, filed December 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 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 1712 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-21-08

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/491444** Patent No.: **7280461**

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: _____

Ali Neyzari
Primary Examiner

William Korzuch
SPE

2627
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,280,461

DATED: October 9, 2007

INVENTOR(S): Sohmei ENDOH

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

Column 5, line 55, change "stumper" to --stamper--;
line 60, change "stumper" to --stamper--;
line 64, change "stumper" to --stamper--.

Column 6, line 1, change "stumper" to --stamper--.

Column 18, line 26, change "$d'1 \leqq d'2$" to --$d'1 \geqq d'2$--;
line 38, change "$\lambda/13.06n < x1 < \lambda/5.84n$ and" to --$\lambda/13.06n \leqq x1 \leqq \lambda/5.84n$ and--
line 40, change "$\lambda/16.14n < x2 < x1$" to --$\lambda/16.14n \leqq x2 \leqq x1$--.

Mailing address of sender:

Patent No. 7,280,461

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20 SEP 2004

#3

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Weingarten, Schurgin, Gagnebin & Lebovich LLP
Ten Post Office Square
Boston, MA 02109

In re Application of	:	
Koyama et al.	:	
Application No. 10/491,456	:	
PCT No.: PCT/JP02/10241	:	
Int. Filing Date: 02 October 2002	:	DECISION
Priority Date: 02 October 2001	:	
Atty. Docket No.: AK-450XX	:	
For: Bactericide For MRSA	:	

This is in response to the "Petition Under 37 C.F.R. § 1.182..." filed on 17 August 2004.

BACKGROUND

This international application was filed on 02 October 2002 and claimed an earlier priority date of 02 October 2001. The United States was designated. The International Bureau communicated a copy of the published international application to the USPTO on 17 April 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 02 April 2004.

On 01 April 2004, applicant filed *inter alia* the basic national fee.

DISCUSSION

Inspection of the declaration filed on 17 August 2004 reveals that it names two joint inventors, Tomonaga Yoshida and Nobuji Koyama, whose names do not appear in the published international application, and inspection of the published international application reveals that it lists two inventors, Shinji Koyama and Tomoo Yoshida, whose names do not appear in the declaration filed on 17 August 2004. Counsel explains these discrepancies by stating that

> During the prosecution of the PCT in Japan, the documents are written in Japanese Hiragana and Chinese characters. The inventors, after completing the specification, are not required to execute any documentation in English on which they would notice the mis-translated spelling of their names until entering the national phase. The mis-translated spelling errors were made without deceptive intent.
>
> The inventors did not confirm the English spelling of their names during the PCT prosecution until entering the U.S. national phase, since in the Japanese

and international applications, Chafflose Corporation was the applicant, while in the U.S. the inventors themselves are the applicants.

This establishes that the discrepancy between the information appearing in the published international application and the information appearing in the declaration arose from a mere translation error. Therefore, the declaration filed on 17 August 2004, which includes the corrected name, is being accepted.

CONCLUSION

Counsel's request to accept the declaration 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 **17 August 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

#6

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Richard L. Mayer
Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of	:
Tichy et al.	:
Application No.: 10/491,459	: DECISION ON
PCT No.: PCT/EP02/11021	:
Int. Filing Date: 01 October 2002	: PETITION
Priority Date: 01 October 2001	:
Attorney's Docket No.: 13046/1	: UNDER 37 CFR 1.47(a)
For: DISTRIBUTED FILE SYSTEM AND METHOD	:
OF OPERATING A DISTRIBUTED FILE SYSTEM	:

This is a decision in response to the petition under 37 CFR §1.47(a) filed on 27 October 2005. The $130 petition fee has been paid.

BACKGROUND

On 01 October 2002, applicants filed international application PCT/EP02/11021 that claimed priority of an earlier European application filed 01 October 2001. 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 thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 01 April 2004.

On 01 April 2004, applicants filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a preliminary amendment and the basic national fee of $920 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/491,459.

On 27 October 2005, applicant filed the current petition along with a declaration signed by inventor Walter Tichy and an affidavit by Mr. Tichy.

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, 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 inventor. The petition is missing item (2) above.

With respect to item (1), applicant included the $130 petition fee. With respect to item (3), applicant provided inventor Isaila's last known address. With respect to item (4), applicant provided a declaration signed by inventor Tichy. With respect to item (2), Mr. Tichy's affidavit states that inventor Florin Isaila wishes "that the concept and the system protected by the patent, remain in public hand", effectively refusing to sign the documents.

CONCLUSION

The petition under 35 U.S.C. 1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 08 July 2005. The application has an international filing date of 01 October 2002 under 35 U.S.C. 363, and a date of **08 July 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.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

08 DEC 2005

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Dr. Florin Isaila
Departamento de Informatica
Universidad Carlos III de Madrid
Avd. De la Universidad 30
28911 Leganes, Madrid, Spain

In re Application of	:
Tichy et al.	:
Application No.: 10/491,459	: DECISION ON
PCT No.: PCT/EP02/11021	:
Int. Filing Date: 01 October 2002	: PETITION
Priority Date: 01 October 2001	:
Attorney's Docket No.: 13046/1	: UNDER 37 CFR 1.47(a)
For: DISTRIBUTED FILE SYSTEM AND METHOD	:
OF OPERATING A DISTRIBUTED FILE SYSTEM	:

Dear Dr. Isailas:

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

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-3280
Fax: (571) 273-0459

Richard L. Mayer
Kenyon & Kenyon
One Broadway
New York, NY 10004

23 JUL 2004

#4

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Richard C. Ekstrom
Incyte Corporation
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
BANDMAN, et al.	:	
PCT No.: PCT/US02/33723	:	DECISION ON PETITION
Application No.: 10/491,467	:	
Int. Filing Date: 17 October 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 19 October 2001	:	
Atty. Docket No.: PF-1244 USN	:	
For: KINASES AND PHOSPHATASES	:	

This decision is in response to applicant's "Petition Under 37 CFR § 1.47(a)" filed 31 March 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 October 2002, applicant filed international application PCT/US02/33723, which claimed priority of an earlier application filed 19 October 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 19 April 2004.

On 31 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); an executed combined declaration and power of attorney; assignment documents for recording; a First Preliminary amendment; the present petition and a copy of the International Search Report.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

Regarding item (1), applicant has provided payment of the appropriate petition fee.

As to item (2), applicant has provided a signed declaration from Lisa A. McDill detailing her efforts to obtain the signature of the non-signing inventor, Ann E. GORVAD including sending her a complete set of the application papers on three occasions, without receiving responses from the non-signing inventor.

Regarding item (3), applicant has supplied a statement of the last known addresses of Ann E. GORVAD.

As to item (4), applicant has a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventors. Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 17 October 2002 under 35 U.S.C. 363, and will be given a date of **31 March 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

14 DEC 2004

#3

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Legal Department
Incyte Corporation
3160 Porter Drive
Palo Alto, CA 94304

In re Application of TANG et al	:	
U.S. Application No.: 10/491,468	:	
PCT Application No.: PCT/US02/32852	:	
Int. Filing Date: 10 October 2002	:	DECISION
Priority Date Claimed: 12 October 2001	:	
Attorney Docket No.: PF-1232 USN	:	
For: MOLECULES FOR DISEASE DETECTION	:	
AND TREATMENT	:	

This is in response to the correspondence filed 31 March 2004, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 10 October 2002, applicant filed international application PCT/US02/32852, which claimed priority of an earlier United States application filed 12 October 2001. The thirty-month period for paying the basic national fee in the United States expired on 12 April 2004.

On 31 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) and the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted declarations signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventor Ann Gorvad.

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.

In the present case, petitioner has attempted to secure the signature of Ann Gorvad by mail on 24 June 2003, 13 August 2003, and 04 November 2003, by telephone on 23 June 2003, 14 July 2003, and 19 August 2003, by electronic mail on 17 July 2003, and by facsimile on 08 September 2003 (see affidavit of Lisa McDill dated 31 March 2004). As all of the correspondence apparently reached the intended destination, it would not be reasonable to conclude that Ms. Gorvad cannot be located. However, petitioner's repeated, varied, and unsuccessful attempts to obtain Ms. Gorvad's signature constitute sufficient evidence that Ms. Gorvad 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 GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 October 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 31 March 2004.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

14 DEC 2004

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Ann Gorvad
2519 Sylvan Street
Bellingham, WA 98226

In re Application of TANG et al
U.S. Application No.: 10/491,468
PCT Application No.: PCT/US02/32852
Int. Filing Date: 10 October 2002
Priority Date Claimed: 12 October 2001
For: MOLECULES FOR DISEASE DETECTION AND TREATMENT

Dear Ann Gorvad:

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

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3160 Porter Drive
Palo Alto, CA 94304

Attorney Docket No.: PF-1232 USN

18 AUG 2004

#4

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Richard C. Ekstrom
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Incyte Corporation
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Palo Alto, CA 94304

In re Application of	:	
BECHA et al.	:	
Application No.: 10/491,472	:	
PCT No.: PCT/US02/34846	:	DECISION ON PETITION
Int. Filing Date: 29 October 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 29 October 2001	:	
Attorney Docket No.: PF-1249	:	
For: NUCLEICACID-ASSOCIATED PROTEINS	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 31 March 2004 to accept the application without the signature of joint-inventor, Ann E. Gorvad. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 29 October 2002, applicants filed international application PCT/US02/34846 which claimed a priority date of 29 October 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 29 April 2004.

On 31 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; a declaration executed by twenty-four of the twenty-five applicant/inventors and a petition under 37 CFR 1.47(a) on behalf of Ann E. Gorvad.

DISCUSSION

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

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was

made to present the application papers, including the specification, claims, and drawings to Ann E. Gorvad. The steps taken by Lisa A. McDill are sufficient to show that Ann E. Gorvad has refused to execute the application.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

For the reasons above, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 29 October 2002 under 35 U.S.C. 363, and will be given a date of **31 March 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

18 AUG 2004

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Ann E. Gorvad
2519 Sylvan Street
Bellingham, Washington 98226

In re Application of
BECHA et al.
Application No.: 10/491,472
PCT No.: PCT:US02/34846
Int. Filing Date: 29 October 2002
Priority Date: 29 October 2001
Attorney Docket No.: PF-1249
For: NUCLEICACID-ASSOCIATED PROTEINS

Dear Ms.Gorvad:

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

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

Anthony Smith

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

Legal Department
Incyte Corporation
3160 Porter Drive
Palo Alto, CA 94304

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0 5 JUN 2007

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA PA 19406-0939

In re Application of
GARCON, Nathalie
App. No.: 10/491,482
PCT No.: PCT/EP02/10931
Int. Filing Date: 30 September 2002
Priority Date: 01 October 2001
Attorney Docket No.: B45285
For: VACCINE

DECISION ON PETITION

This decision is in response to applicant's "Petition to Withdraw Notice of Abandonment" filed 09 March 2007, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 30 September 2002, applicant filed international application PCT/EP02/10931 which claimed a priority date of 01 October 2001 and which designated the United States. On 10 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 submission of the basic national fee was thirty months from the priority date, i.e., 01 April 2004.

On 01 April 2004, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a copy of the international application, Biochemical Sequence Listing, and a preliminary amendment.

On 09 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 was required. Furthermore, the Notification stated 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 had not been submitted as required by 37 CFR 1.821(e).

On 09 March 2007, the petition considered herein was filed. The petition asserts that on 11 October 2004 applicant submitted an executed declaration. Attached to the petition is a copy of the materials purportedly faxed on 11 October 2004 (including the executed declaration), as well as a petitioner's facsimile transmission report.

DISCUSSION

The application file contains the executed declaration originally filed by applicant on 11 October 2004. The declaration bears a USPTO receipt stamp dated 11 October 2004, confirming the asserted filing date. The filing date of the declaration is therefore confirmed, and the declaration is considered a timely response to the Notification Of Missing Requirements mailed 11 October 2004. It is noted that the Biochemical Sequence Listing was previously submitted on 01 April 2004.

The abandonment of the application, based as it was on applicant's purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately withdrawn. A review of the declaration filed 11 October 2004 confirms that the declaration is in compliance with 37 CFR 1.497.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The executed declaration filed 11 October 2004 is accepted as a timely response to the Notification Of Missing Requirements (Form PCT/RO/905) mailed 09 September 2004.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Anthony Smith

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KING OF PRUSSIA PA 19406-0939

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OFFICE OF PETITIONS

In re Application of	:	
Koeth et al.	:	
Application No. 10/491,483	:	ON PETITION
Filed: April 1, 2004	:	
Attorney Docket No. C70485	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 23, 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 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 Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

21 OCT 2004

#3

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

In re Application of	:	
SUH et al.	:	
Application No.: 10/491,492	:	DECISION ON PETITION
PCT No.: PCT/KR02/01344	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 July 2002	:	
Priority Date: 26 July 2001	:	
Attorney Docket No.: 26068	:	
For: ADENOSYLETHIONINE SYNTHETASE FROM STREPTOMCYCES SP., GENE SEQUENCES CODING THE SAME. . .	:	

The petition to revive under 37 CFR 1.137(b) filed 01 April 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

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Attorney-Advisor
Office of PCT Legal Administration
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Joo-Won Suh et al.	:	
Application No. 10/491,492	:	ON PETITION
Filed: April 1, 2004	:	
Attorney Docket No. 26068	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 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, November 21, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 26, 2006. The Notice of Abandonment October 2, 2006.

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

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

The application file is being referred to Technology Center AU 1652 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

14 SEP 2004

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SAN JOSE, CA 95172-1120

In re Application of GARVEY et al	:	
U.S. Application No.: 10/491,508	:	
PCT Application No.: PCT/GB02/04526	:	
Int. Filing Date: 07 October 2002	:	DECISION
Priority Date Claimed: 05 October 2001	:	
Attorney Docket No.:	:	
UDL1P009/RMV/lm/P400536US	:	
For: ELECTRICAL MACHINE HAVING	:	
CAPABILITY TO GENERATE LATERAL	:	
FORCES	:	

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 25 August 2004.

BACKGROUND

On 07 October 2002, applicant filed international application PCT/GB02/04526, which claimed priority of an earlier United Kingdom application filed 05 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 17 April 2003. The thirty-month period for paying the basic national fee in the United States expired on 05 April 2004.

On 01 April 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not 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 Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely pay the basic national fee.

On 25 August 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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OFFICE OF PETITIONS

Fasse Patent Attorneys, P.A.
P.O. Box 726
Hampden, ME 04444-0726

In re Application of	:	
Olli Jaakkola et al.	:	
Application No. 10/491,533	:	DECISION ON PETITION
Filed: July 7, 2004	:	TO WITHDRAW
Attorney Docket No. 4730	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Walter F. Fasse and all attorneys/agents of record have been revoked by the assignee of the patent application on July 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Muncy, Geissler, Olds & Lowe, PLLC
P.O. Box 1364
Fairfax, VA 22038-1364

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ALEXANDRIA VA 22314-1176

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OFFICE OF PETITIONS

In re Application of :
Keiji Yano et al :
Application No. 10/491,540 : DECISION GRANTING PETITION
Filed: April 2, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. MAD-C411 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 of July 11, 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 3721.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

24 AUG 2004

#3

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

In re Application of	:	
JAHREISS et al.	:	
U.S. Application No.: 10/491,542	:	DECISION ON PETITION
PCT No.: PCT/CH02/00549	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 02 October 2002	:	
Priority Date: 03 October 2001	:	
Attorney Docket No.: 009765-049	:	
For: VARIABLE CAPACITOR HAVING AN INCREASED CURRENT CAPACITY	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 30 June 2004 accept the application without the signature of joint-inventor, Bernhard Hug. The $130 petition fee will be charged to Deposit Account no. 02-4800.

BACKGROUND

On 02 October 2002, applicants filed international application no. PCT/CH02/00549 which claimed a priority date of 03 October 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. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 03 April 2004.

On 02 April 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 translation of the international application; and a preliminary amendment.

On 30 June 2004, applicants filed a Petition under 37 CFR 1.47(a) and the requisite fee and a declaration and power of attorney signed by three of the four joint inventors.

DISCUSSION

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

her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, petitioner states that Bernhard Hug has refused to sign the application. Section 409.03(d) of the Manual Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition and papers reveals that petitioner has not provided sufficient proof that the non-signing inventor refuses to execute the application. As stated in Mr. Hug's (translated) E-mail, "[y]ou have presented me with documents for a patent application for Comet Company . . . I have too little knowledge of the English language to fully understand your letter, and therefore, at this moment, and without more precise explanation, I cannot sign the documents." Mr. Hug's (translated) E-mail does not indicate a refusal to sign the application papers, but rather a unwillingness to execute application because he does not understand the letter presented to him. Further, the refusal to Dr. A.R. Lorenz cannot be considered firsthand knowledge since it is unclear if the refusal was made to A.R. Lorenz or someone at Coment AG. As stated above, where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made.

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

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED**.

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

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

Anthony Smith

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

16 NOV 2004

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#5

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

In re Application of JAHREISS et al. Application No.: 10/491,542 PCT No.: PCT/CH02/00549 Int. Filing: 02 October 2002 Priority Date: 03 October 2001 Attorney Docket No.: 009765-049 For: VARIABLE CAPACITOR HAVING AN INCREASED CURRENT CAPACITY	: : : : : : : :	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Request for Reconsideration of the Decision on Petition under 37 CFR 1.47(a)" filed 25 October 2004 to accept the application without the signature of joint inventor, Bernhard Hug.

BACKGROUND

On 02 October 2002, applicants filed international application PCT/CH02/00549, which claimed a priority date of 03 October 2001. 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 period for paying the basic national fee in the United States expired 30 months from the priority date, 03 April 2004.

On 02 April 2004, 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 translation of the international application; and a preliminary amendment.

On 30 June 2004, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 24 August 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 25 October 2004, applicants filed the present "Request for Reconsideration of the Decision on Petition under 37 CFR 1.47(a)."

Application No.: 10/491,542

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.

As to item (2), a review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Bernhard Hug. The steps taken are sufficient to show that Bernhard Hug refuses to execute the application.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

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

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

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

Anthony Smith
Attorney-Advisor
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Tel.: 571-272-3298
Facsimile: 571-273-0459

16 NOV 2004

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Berhard Hug
Freiburgerstrasse 353
Bumpliz, Switzerland CH-3018

In re Application of
JAHREISS et al.
Application No.: 10/491,542
PCT No.: PCT/CH02/00549
Int. Filing: 02 October 2002
Priority Date: 03 October 2001
Attorney Docket No.: 009765-049
For: VARIABLE CAPACITOR HAVING AN INCREASED CURRENT CAPACITY

Dear Mr. Hug:

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 PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-272-0459

Counsel of Record:
Robert S. Swecker
Burns, Doane, Swecker, & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313

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OFFICE OF PETITIONS

In re Patent No. 6,920,033 :
Issue Date: July 19, 2005 :
Application No. 10/491,542 :
Filed: April 2, 2004 :
Attorney Docket No. 009765-049 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

01 MAR 2005

A2

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EDWARDS & ANGELL
P.O. BOX 55874
Boston, MA 02205

In re Application of	:	
LEONG, Kam, W.; et al.	:	
U.S. Application No.: 10/491,544	:	
PCT No.: PCT/US02/31500	:	DECISION ON PETITION
International Filing Date: 03 October 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 03 October 2001	:	
Attorney's Docket No.: 56536 (71699)	:	
For: COMPOSITIONS FOR ORAL GENE THERAPY	:	
AND METHODS OF USING SAME	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47" filed 28 December 2004. Applicant has paid the required petition fee.[1]

BACKGROUND

On 03 October 2002, applicants filed international application PCT/US02/31500 which claimed a priority date of 03 October 2001 and which designated the United States. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 03 April 2004.

On 01 April 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.

On 28 June 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 was required.

On 28 December 2004, applicants filed the submission considered herein. The submission included a declaration executed by two of the three inventors, and the petition considered herein under 37 CFR 1.47(a). The petition requests acceptance of the application without the signature of nonsigning inventor Grace OKOLI, whom applicants assert cannot be located after diligent effort. The submission also included the required fee for a four month extension of time to respond to the Notification Of Missing Requirements.

---

[1] Applicant authorized a $130 charge for the petition fee; however, the applicable petition is $200. Deposit Account No. 04-1105 will be charged the $70 balance.

DISCUSSION

In order for the application to be accepted without the signature of the nonsigning inventor, applicants must submit a grantable petition under 37 CFR 1.47(a). A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the proper petition fee, (2) a statement of the last known address of the inventor; (3) an oath or declaration executed by the other inventors on their own behalf and on behalf of the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort. Applicant here has failed to satisfy item (4).

The proof required to show that a nonsigning inventor cannot be reached after diligent effort is set forth in section 409.03(d) of the MPEP, which states:

> 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.

Here, applicants have not provided any evidence with respect to the efforts made to locate the nonsigning inventor. The petition includes a general statement that "repeated efforts to contact Ms. OKOLI by telephone and mail" have been unsuccesful. However, it not clear that the person signing the petition actually made these telephnoe calls and mailings and therefore has the requisite firsthand knowledge of these efforts. In addition, further detail and documentary support is required to determine whether the efforts made were sufficient. It is noted that mailings and/or telephone calls to the last known address of the nonsigning inventor alone would not be sufficient; evidence must be presented as to some efforts made to identify a more current address for the inventor (i.e., internet searches). On the present record, item (4) is not satisfied.

Based on the foregoing, applicants have not satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and should include an adequate, firsthand statement (with available documentary support) detailing the efforts made by applicants to locate the nonsigning inventor, as discussed above.

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application.

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

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

21 JUN 2005

#9

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EDWARDS & ANGELL
P.O. BOX 55874
Boston, MA 02205

In re Application of	:	
LEONG, Kam, W.; et al.	:	
U.S. Application No.: 10/491,544	:	
PCT No.: PCT/US02/31500	:	DECISION ON RENEWED
International Filing Date: 03 October 2002	:	PETITION UNDER
Priority Date: 03 October 2001	:	37 CFR 1.47(a)
Attorney's Docket No.: 56536 (71699)	:	
For: COMPOSITIONS FOR ORAL GENE THERAPY	:	
AND METHODS OF USING SAME	:	

In a decision mailed 01 March 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to provide the outstanding requirements for a grantable petition under 37 CFR 1.47(a). Specifically, applicants had failed to provide adequate evidence that the nonsigning inventor could not be reached or located after diligent effort.

On 02 May 2005, applicants filed the renewed petition considered herein. The renewed petition asserts that the nonsigning inventor has now been contacted, but that the inventor has refused to execute the application. However, before a refusal to execute the application can be claimed, MPEP § 409.03(d) requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings, and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." The present submission does not include firsthand evidence that the application (specification, claims, and drawings) has been provided to the nonsigning inventor, as required before a refusal can be asserted (the renewed petition refers only to the Declaration being sent to the inventor). Applicants must provide a firsthand statement, with supporting documentary evidence, confirming that the inventor has been provided with a copy of the complete application papers and has refused to execute the application. Until such materials are provided, the final requirement for a grantable petition remains unsatisfied.

Based on the above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)" and should include an adequate, firsthand statement (with available documentary support) demonstrating that the inventor has been provided with a copy of the complete application papers and has refused to execute the oath or declaration.

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, 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
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Facsimile: (571) 273-0459

13 SEP 2005

#11

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P.O. BOX 55874
Boston, MA 02205

In re Application of	:	
LEONG, Kam, W.; et al.	:	
U.S. Application No.: 10/491,544	:	
PCT No.: PCT/US02/31500	:	DECISION ON SECOND
International Filing Date: 03 October 2002	:	RENEWED PETITION
Priority Date: 03 October 2001	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 56536 (71699)	:	
For: COMPOSITIONS FOR ORAL GENE THERAPY	:	
AND METHODS OF USING SAME	:	

In a decision mailed 21 June 2005, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to provide the outstanding requirements for a grantable petition under 37 CFR 1.47(a). Specifically, applicants had failed to provide adequate evidence that the nonsigning inventor had been provided with a copy of the complete application papers and had refused to execute the application.

On 19 August 2005, applicants filed the second renewed petition considered herein. The second renewed petition under 37 CFR 1.47(a) includes additional materials regarding the efforts made to obtain the signature of the nonsigning inventor, including a copy of an email to the nonsigning inventor with an attachment identified as the present application. These materials, in combination with those previously submitted, are accepted as adequate evidence that the nonsigning inventor has been presented with a copy of the complete application papers and has refused to execute the application.

Applicants have now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

Applicants' second renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of nonsigning inventor Grace OKOLI.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the petition, and 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 PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 December 2004.

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Kam W. LEONG, et al	:	
Application No. 10/491,544	:	DECISION ON PETITION
Filed: December 28, 2004	:	
Attorney Docket No. 56536(71699)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 Restriction Requirement, mailed December 1, 2009 , which set a shortened statutory period for reply of **one (1) month or thirty (30) days** (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810; and (3) a proper 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 1633 for appropriate action by the Examiner in the normal course of business on the reply received June 3, 2010.

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

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

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JUL 25 2006
OFFICE OF PETITIONS

Applicant: Dimitri
Appl. No.: 10/491,557
Filing Date: April 2, 2004
Title: DEVICE FOR SEQUENCING NUCLEIC ACID MOLECULES
Attorney Docket No.: 066741-0034
Pub. No.: US 2005/0227231 A1
Pub. Date: October 13, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on November 14, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on page 20, paragraph [0407] of the published application, wherein "Fig. 2" is omitted before "Flow Chart".

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

The error noted by requestor wherein "Fig. 2" is omitted before "Flow Chart" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the specification, as the error occurs in a description of the figures. The mistake is a minor typographical, which does not affect the understanding of the dependent claim. 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 compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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APR 22 2008

BASELL USA INC.
DELAWARE CORPORATE CENTER II
2 RIGHTER PARKWAY, SUITE 300
WILMINGTON, DE 19803

In re Application of:
Gulevich et al.
Serial No.: 10/491,559
Filed: April 2, 2004
Attorney Docket No.: FE 6042 (US)

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.182 filed on November 23, 2007, submitted with the required fee as set forth in 37 CFR § 1.17(f), requesting that the Notice of Non-compliant Information Disclosure Statement mailed on November 7, 2007 be rescinded and that the Information Disclosure Statement filed October 31, 2007 be entered and considered by the examiner. The delay in acting upon this petition is regretted.

BACKGROUND

More recently, the examiner mailed a non-final Office action on August 10, 2007 setting a three month statutory limit for reply.

Thereafter, applicants filed a Supplemental Information Disclosure Statement on October 31, 2007 requesting consideration of the references cited therein. Concurrently, applicants authorized the Commissioner to charge the required Information Disclosure Statement fee to deposit account 08-2336.

On November 7, 2007, the Office mailed a Non-compliant Information Disclosure Statement which indicated that the Supplemental Information Disclosure Statement filed October 31, 2007 failed to meet the requirements of 37 CFR § 1.97(d) because the Information Disclosure Statement lacked a statement as specified in 37 CFR § 1.97(e). It is noted that this Statement was not mailed by the examiner.

In response thereto, applicants filed this petition under 37 CFR § 1.182 filed on November 23, 2007, requesting that the Notice of Non-compliant Information Disclosure Statement mailed on November 7, 2007 be rescinded and that the Information Disclosure Statement filed October 31, 2007 be entered and considered by the examiner.

DISCUSSION

In the petition filed on November 23, 2007, applicants argue that because the aforementioned Information Disclosure Statement was filed after the mailing of a non-final Office action with the appropriate fee, applicants were not required to file a statement as specified in 37 CFR § 1.97(e) and thus contend that the Non-compliant Information Disclosure Statement sent by the Office on October 31, 2007 was in error.

Applicants correctly point out that an Information Disclosure Statement filed after a non-final Office action, but before a final Office action is not governed by 37 CFR § 1.97(d), as incorrectly stated in the Notice of Non-compliant Information Disclosure Statement, but is governed by the provisions of 37 CFR § 1.97(c) which states:

> (c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:
> (1) The statement specified in paragraph (e) of this section; or
> (2) The fee set forth in § 1.17(p).

Applicants' points are well taken. An Information Disclosure Statement filed after a non-final Office action, but before a final Office action is not governed by 37 CFR § 1.97(d), but is governed by the provisions of 37 CFR § 1.97(c). Thus, the Office's requirement for the Information Disclosure Statement filed by applicants on October 31, 2007 to conform to the requirements of 37 CFR § 1.97(d) was an inadvertent oversight.

It is clearly evident that the Information Disclosure Statement filed by applicants on October 31, 2007 satisfied the requirements of 37 CFR § 1.97(c) in that the Information Disclosure Statement implicitly authorized payment of the fee set forth in 37 CFR § 1.17(p): "[t]he Commissioner is hereby authorized to charge USPTO deposit account 08-2336 any payment due and to credit any overpayment thereto." The fee for the filing of the aforementioned Information Disclosure Statement in the amount of $180.00 was recorded by the Office on November 14, 2007. Because 37 CFR § 1.97(c) indicates that the Information Disclosure Statement must fulfill one of 37 CFR § 1.97 § (c) (1) *or* (2) as set forth above, applicants have satisfied the requirements of 37 CFR § 1.97(c) by correctly complying with 37 CFR § 1.97(c)(2).

It is decided that the Non-compliant Information Disclosure Statement mailed by the Office on November 7, 2007 was in error and hence, the Non-compliant Information Statement is hereby rescinded.

DECISION

The petition is **GRANTED.**

A response to the non-final Office action was entered into the application on February 11, 2008 and thus, the application is awaiting action by the examiner. The examiner will properly consider the Information Disclosure Statement filed by applicants on October 31, 2007 provided it complies with the provisions set forth under 37 CFR § 1.98 which is to the discretion of the examiner.

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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OFFICE OF PETITIONS

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

In re Application of	:	
Akihiko Nishio et al	:	
Application No. 10/491,573	:	ON PETITION
Filed: April 5, 2004	:	
Attorney Docket No. L9289.04132	:	

This is a decision on the petition, filed May 14, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 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 2618 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Ian McKenzie et al	:	
Application No. 10/491,580	:	DECISION ON PETITION
Filed: September 29, 2004	:	TO WITHDRAW
Attorney Docket No. 4602XL-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2005.

The petition is **APPROVED**.

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

The request was signed by Robert D. Traver on behalf of all attorneys/agents of record who are associated with customer No. 22442.

All attorneys/agents associated with the Customer Number 22442 have been withdrawn.

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

A power of attorney submitted on February 15, 2006 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

The request to change the correspondence of record is not acceptable as the requested

correspondence address is not that of: (1) the first named inventor; and (2) the assignee of the entire interest. All future communications from the Office will be directed to the first named inventor at the below-listed address until otherwise properly notified by the applicants.

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

This application is being referred to Technology Center AU 1632.

David Bucci
Petitions Examiner
Office of Petitions

cc: SHERRY KNOWLES
KING AND SPALDING
191 PEACHTREE STREET
ATLANTA, GA 30303-1763

IAN MCKENZIE JR.
C/O XENOTRANS LIMITED
359 BRUNSWICK ROAD, 3056
AUSTRALIA

REVIVICOR INC
1700 KRAFT DRIVE
SUITE 2400
BLACKSBURG, VA 24060

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

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OFFICE OF PETITIONS

In re Application of	:	
Slavicek, Rudolf	:	
Application No. 10/491,581	:	ON PETITION
Filed: April 1, 2004	:	
Attorney Docket No. 5275-20PUS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 3732 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW LLP/EA
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Jason Rupert	: DECISION ON REQUEST FOR
Patent Number	: 7588493	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,585	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1236** 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.

05 JAN 2005

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W. WILLIAM PARK
LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1200
CHICAGO, ILLINOIS 60604

In re Application of LEE	:
Application No.: 10/491,600	:
PCT Application No.: PCT/KR02/01279	: DECISION ON PETITION
Int. Filing Date: 06 July 2002	: UNDER 37 CFR 1.137(b)
Priority Date Claimed: 06 July 2001	:
Attorney Docket No.: CU-3670 RJS/WWP	:
For: FEED-BACK CONTROL SYSTEM FOR	:
HEAT EXCHANGER WITH NATURAL	:
SHEDDING FREQUENCY	

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 01 April 2004 is GRANTED.

BACKGROUND

On 06 July 2002, applicants filed international application PCT/KR02/01279. The international application claims a priority date of 06 July 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 06 January 2004. Applicants missed this deadline.

On 01 April 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), a copy of the international application as required by 35 U.S.C. 371(c)(2), an executed declaration, a surcharge for filing declaration later than 30 months from the earliest claimed priority date. and the petition fee of $665.

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.

Applicant's statement in the petition that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee 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.

Applicants have satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 06 July 2002 under 35 U.S.C. 363 and a date of 01 April 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Nathan Newhouse
Detailee
PCT Legal Administration
Telephone: 571-272-6095
Facsimile: 571-273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/27/2010

Applicant	: Neil Kirby	: DECISION ON REQUEST FOR
Patent Number	: 7642126	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/491,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

2 9 SEP 2008

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

In re Application of	:
GAMBINO et al.	:DECISION ON PETITIONS
Application No.: 10/491,609	:UNDER 37 CFR 1.78(a)(3)
PCT No.: PCT/US03/24584	: AND 37 CFR 1.78(a)(6)
Int. Filing Date: 05 August 2003	:
Priority Date: 05 August 2002	:
Attorney Docket No.: 8009-18 US	:
For: SYSTEM AND METHOD FOR	:
MANUFACTURING EMBEDDED	:
CONFORMAL ELECTRONICS	:

This is a decision on the "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 120 AND 35 U.S.C. 365(c)" filed 07 December 2007. The petition has properly been treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

A petition under 37 CFR §§ 1. 78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The petition was accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

Petition Under 37 CFR 1.78(a)(3)
The instant petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application by way of an amendment to the specification, which reads: "This application is a National Stage Application of International Application No. PCT/US2003/24584, filed August 5, 2003".

As set forth in MPEP 1893.03(c), page 1800-199, a national stage application filed under 35

U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as involving a moot issue.

Petition Under 37 CFR 1.78(a)(6)

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); and (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted. With regard to (3), the petition includes a statement that "[t]he entire delay between the date the claim was due under paragraph §1.78(a)(2)(ii) of this section and the date the claim was filed was unintentional" is construed to mean "the entire delay between the date the claim was due under paragraph §1.78(a)(5)(ii) of this section and the date the claim was filed was unintentional." If this is incorrect, petitioner MUST IMMEDIATELY NOTIFY the Office of PCT Legal Administration. As so construed, item (3) above is satisfied. Accordingly, having found that the

instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Daniel Stemmer at (571) 272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3742 for appropriate action on the amendment submitted 07 December 2007, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/401,150 filed August 5, 2002. (It is noted that the amendment filed 07 December 2007 indicates the filing date of the provisional as August 8, 2002 rather than August 5, 2002. However, a correct filing date in the amendment regarding the provisional application is not a requirement of Rule 78.)

/Daniel Stemmer/

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

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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BOSTON MA 02111

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application
Gerard Andrew Potter et al.
Application No. 10/491,616
Filed: April 2, 2004
Attorney Docket No. **33664-502**

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed May 8, 2009. Applicant requests that the determination of patent term adjustment be corrected from zero (0) to four hundred eighty-three (483) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008). Applicants seek 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three 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 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 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 such a request as premature.

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

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

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

---

[1] For example, if applicants dispute 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 applicants 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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ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Gerard Andrew Potter	: DECISION ON REQUEST FOR
Patent Number	: 7598294	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **635** 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

DATE : 3/21/07

Paper No.: —

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/491617 Patent No.: 7178281 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: _____

Lesley D Morris

LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3611
Art Unit

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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:	
Yamashita et al.	:	
Application No. 10/491,635	:	ON PETITION
Filed: April 2, 2004	:	
Attorney Docket No. 047991-5011	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 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 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 2800 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
GANG, Singi	:	
Application No. 10/491,671	:	DECISION GRANTING PETITION
Filed: April 1, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4667-4000	:	

This is a decision on the petition, filed July 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 28, 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 3618 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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JUL 24 2006
OFFICE OF PETITIONS

In re Application of :
Singi Kang :
Application No. 10/491,671 :
Filed: April 1, 2004 :
Attorney Docket No.: 4667-4000 :

ON PETITION

This is a decision on the petition, filed July 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 28, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3618 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
Kang :
Application No. 10/491,671 : LETTER AND NOTICE OF
Filed: April 1, 2004 : NON ENTRY OF THIRD PARTY
PG Pub:12/30/2004 US20040262872A1 : PAPERS

This application is before this office due to several documents filed by a third party on July 19, 2006, including a "petition" styled as being filed under either 37 CFR 1.313 to withdraw this application from issue, or requesting in the alternative, waiver of the rules and consider the accompanying (2)protest and IDS.

The petition to withdraw this application from issue filed by the third party is dismissed, as is the alternative third party request for waiver of the rules

Since this application was the subject of a pre grant publication (PG Pub)prior to the filing of the above-noted documents, the provisions of the statute (35 U.S.C. § 122(c)) the applicable rules (*e.g.*, 37 CFR §§ 1.99, 1.291, and 1.292) and procedures(e.g., MPEP §§ 1134.01, 1901.06) now place stringent limitations on the treatment, or even on the retention *vel non* in this file, of any third party submissions that protest, oppose the grant of, or seek to have other information entered and considered in, this application. See also *Third Party Attempts to Protest or Otherwise Oppose the Grant of a Published Application*, 1269 *Off. Gaz. Pat. Office* 179 (April 22, 2003)

37 CFR 1.99 requires, in pertinent part that:

> (c) The submission under this section must be served upon the applicant in accordance with § 1.248.
>
> (d) A submission under this section shall not include any explanation of the patents or publications, or any other information. The Office will not enter such explanation or information if included in a submission under this section. A submission under this section is also limited to ten total patents or publications.
>
> (e) A submission under this section must be filed within two months from the date of publication of the application (§ 1.215(a)) or prior to the mailing of a notice of allowance (§ 1.311), whichever is earlier. Any submission under this section

> not filed within this period is permitted only when the patents or publications could not have been submitted to the Office earlier, and must also be accompanied by the processing fee set forth in § 1.17(i). **A submission by a member of the public to a pending published application that does not comply with the requirements of this section will not be entered** (emphasis added).

As the "combined petition and protest" consumes 4 pages in all, they obviously contain too much information for compliance with 37 CFR 1.99 and must be removed from this file. Furthermore as the submission is subsequent to the mailing of the Notice of Allowance, it is also time barred.

Likewise, even treating the documents in question as a protest, 37 CFR 1.291(b) does not permit retention of the submission/protest in this file record:

> (b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:
>
> > (1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.
> >
> > (2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest; or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.

Here, the protest was filed subsequent to both publication and the mailing of the Notice of Allowance and is thus time barred.

As to the request in the third party petition for extraordinary relief under 37 CFR 1.183, that is likewise unavailing. First, petitioner failed to show that as a third party, he may properly invoke 37 CFR 1.182 *vis-a-vis* this application. A mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made ex parte. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570,

1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir. 1989). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. The Court of Appeals for the Federal Circuit (Federal Circuit)has refused to accord standing to third parties challenging Office actions (outside of the an interference) during the prosecution of an application for patent. See Animal Legal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 ("We find nothing in the law which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. A third party has no right to intervene in the prosecution of a particular patent application to prevent the issuance of an allegedly invalid patent"). The Office has promulgated regulations permitting third parties to file protests and petitions for public use proceedings in applications that have not been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.291 and 1.292) and to file prior art submissions in applications that have been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.99). The rules of practice, however, do not permit a third party to petition the Office for extraordinary relief. That the Office does permit a third party to file certain papers in an application does not afford a third party with standing to challenge Office decisions in that application. Cf. Boeing Co. v. Commissioner of Patents and Trademarks, 853 F.2d 878, 881, 7 USPQ2d 1487, 1489 (Fed. Cir. 1988)(that a third party is permitted to participate in district court action concerning a reexamination proceeding does not imply that the third party has standing to appeal a district court decision favorable to patent owner). The Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petitions in this or any other application to the Office of Enrollment and Discipline for appropriate action.

Second, assuming for the sake of argument that a third party may properly invoke 37 CFR 1.183, such request must be refused, as the requested relief, much less retention of the request in this file, is contrary to 37 CFR 1.99 and 1.291.

Accordingly, to the extent that the third party petition is entitled to treatment, it is dismissed.

Given the lack of compliance with either of the two regulations (37 CFR §§ 1.99 and 1.291) governing third party submissions of information in a published application or allowed application, the documents submitted by the third party cannot be permitted to remain in the file. As service on applicant was indicated on applicant, it

is not necessary for the USPTO to send a copy to the applicant. This communication is also the notice of non entry. See MPEP 1901.06 subsection V(a)(2). The documents filed by the third party are being closed to public inspection which is the IFW equivalent of expungement from a paper file.

Telephone inquiries related to this decision may be addressed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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MAR 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Pun et al.	:	
Application No. 10/491,681	:	ON PETITION
Filed: September 8, 2004	:	
Attorney Docket No. 930024-2009	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (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 $310.00 extension of time fee submitted with the petition on January 6, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

This matter is being referred to Technology Center AU 2624 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Ronald R Santucci
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 06/02/2010

Applicant	: Thierry Pun	: DECISION ON REQUEST FOR
Patent Number	: 7664288	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/491,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1029** 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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Advanced Systems Automation, LTD.
BLK 25 Kallang AVE.
07-06 Singapore
Singapore 33941-6 SG **SINGAPORE**

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MAY 27 2008

In re Application of	:	
Jimmy Chew Hwee Seng, et. al.	:	
Application No. 10/491,687	:	ON PETITION
Filed: October 29, 2004	:	
Attorney Docket No. 1007.P046US/KJT/ayu	:	

This is a decision on the petition under 37 CFR 1.137(b), on June 19, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Restriction/Election Requirement mailed September 27, 2006.

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

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

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) an election and an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2892, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Christopher J. Roucj
Jackson Walker, L.L.P.
901 Main Street, Suite 6000
Dallas, TX 75202

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THONGSIA BUILDING
SINGAPORE, SINGAPORE 22992-2

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JUN 23 2008

In re Application of	:	
SENG, Jimmy Chew Hwee et al.	:	
Application No. 10/491,687	:	DECISION ON PETITION
Filed: October 29, 2004	:	TO WITHDRAW
Attorney Docket No. **1007.P046US/KJT/ayu**	:	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 29, 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, (we are no longer the agent for the application), does not meet any the conditions set forth in 37 CFR 10.40.

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

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ADVANCED SYSTEMS AUTOMATION LTD**
BLK 25 KALLANG AVE
07-06 SINGAPORE
SINGAPORE 33941-6 SG SINGAPORE

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JEAN M. MACHELEDT
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SUITE B100
FORT COLLINS CO 80525-3133

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OFFICE OF PETITIONS

In re Application of	:	
Mark Anthony Blackford	:	
Application No. 10/491,693	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. FLPD-100A	:	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 18, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on August 30, 2007.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Richard Jackson, Esq.**
Carpmaels & Ransford
European Patent Attorneys
Trademark Attorneys
43-45 Bloomsbury Square
London WC1A 2RA
UK

21 NOV 2005

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Mark R. Backofen
Locke, Liddell & Sapp, LLP
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201-6776

In re Application of	:	
MAZIERS	:	
Application No.: 10/491,697	:	
PCT No.: PCT/EP02/11054	:	DECISION ON PETITION
Int. Filing Date: 26 September 2002	:	
Priority Date: 02 October 2001	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: F-827 31223.00034	:	
For: HIGH ESCR GLOSSY PLASTIC CONTAINERS	:	

The petition to revive under 37 CFR 1.137(b) filed 10 November 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the Response to Notification of Missing Requirements from the due date to the filing of this petition under 37 CFR §1.137(b)(3) 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 which complies with 37 CFR 1.497. 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 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 has an international filing date of 26 September 2002 under 35 U.S.C. 363 and will be given a date of **10 November 2005** 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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David J Alexander
Fina Technology Inc
Po Box 674412
Houston TX 77267-4412

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In re Application of	:	
Eric Maziers	:	
Application No. 10/491697	:	DECISION
Filing or 371(c) Date: 11/10/2005	:	ON PETITION
Patent No.: 7514130	:	
Issue Date: 04/07/2009	:	
Attorney Docket Number: F-827(31223/00034)	:	

This is a decision on the Request for Certificate of Correction of Patent for Applicant's Mistake (37 CFR § 1.323), filed May 14, 2009, to correct the name of the assignee on the front page of the above-identified patent, and to correct the attorney name and a word in the abstract, by way of a Certificate of Correction. The delay in treating this petition is regretted.

The Petition is **granted to the extent indicated herein**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the certificate of correction and processing fee. Further, Office assignment records reflect that TOTAL PETROCHEMICALS RESEARCH FELUY, is the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to correct the name of the assignee on the front page of the above-identified patent, to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for consideration of correction the attorney name and a word in the abstract that was included on the Certificate of Correction filed with the present petition on May 14, 2009.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

01 FEB 2005

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01 FEB 2005

Smith-Hill & Bedell, P.C.
12670 NW Barnes Road, Suite 104
Portland, OR 97229

In re Application of	:	
Luo et al.	:	
Application No. 10/491,706	:	
PCT No.: PCT/GB02/04521	:	
Int. Filing Date: 04 October 2002	:	DECISION
Priority Date: 04 October 2001	:	
Atty. Docket No.: SWIN 2863	:	
For: Apparatus And Method	:	
For Measuring Colour	:	

This is in response to the "Petition To Correct Date Under 35 USC 371(c)" filed on 26 October 2004.

BACKGROUND

This international application was filed on 04 October 2002, claimed an earliest priority date of 04 October 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 10 April 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 05 April 2004 (since 04 April 2004 was a Sunday).

On 02 April 2004, applicants filed, *inter alia*, the basic national fee.

On 07 June 2004, applicants filed a response, including an executed declaration.

On 19 August 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors.

On 30 August 2004, applicants filed *inter alia* an executed declaration.

On 07 October 2004, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of receipt of 35 U.S.C. 371(c)(1), (2) and (4) requirements was 30 August 2004.

DISCUSSION

Petitioner requests that the Notice of Acceptance and the filing receipt be corrected to show a 35 U.S.C. 371(c)(1), (2) and (4) date of 07 June 2004, on the basis that "the declaration for patent application was filed on June 7, 2004, as shown by the applicant's reply

to the Notification of Missing Requirements mailed August 19, 2004 and the enclosed copy of a return postcard being date-stamped June 7, 2004." Review of the electronic application file reveals that the 07 June 2004 response is present, including the declaration. As such, it would be appropriate to conclude that applicants completed the requirements of 35 U.S.C. 371(c)(1), (2) and (4) on 07 June 2004. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 07 October 2004 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a corrected Notice of Acceptance (Form PCT/DO/EO/903) and filing receipt reflecting its corrected date under 35 U.S.C. 371(c)(1), (2) and (4) of **07 June 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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SUITE 1700
CLEVELAND OH 44114

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Drentham Susman et al.	:	DECISION ON
Application No. 10/491,708	:	PETITION
Filed: August 13, 2004	:	
Attorney Docket No. C64-7052	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed November 15, 2006.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed April 11, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment, made timely by an accompanying petition and extension of time for response within the third month, was filed on October 6, 2006. However, the reply was determined by the examiner to not place the application in condition for allowance (Advisory Action mailed October 26, 2006). No proper reply having been received and no further extension of time obtained the application became abandoned effective October 12, 2006. A courtesy Notice of Abandonment was mailed on November 14, 2006.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 2834 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed November 15, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

10 AUG 2004

#3

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Marc Karish
Sheldon & Mak
225 S. Lake Avenue
9th Floor
Pasadena, CA 91101

In re Application of LANDLINGER, Richard Application No.: 10/491,730 PCT No.: PCT/AT02/00157 Int. Filing Date: 23 May 2002 Priority Date: 23 May 2001 Docket No.: 14766US For: FLUOROMETER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 31 March 2004 is **GRANTED**.

Applicant's statement that the delay in response was unintentional is construed to mean "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). If this understanding is not correct, applicant must notify the office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Hansen et al.	:	
Application No. 10/491,746	:	ON APPLICATION FOR
Filed: August 11, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2836-0130PUS2	:	
Title: ASSESSMENT OF LESIONS	:	
IN AN IMAGE	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed July 2, 2009. Applicant requests that the determination of patent term adjustment be increased by five hundred and fifty-one (551) days to one thousand, four hundred and thirty-one (1431) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.[1, 2]

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**.

---

1 The third and fourth paragraphs of this petition contain two separate periods of "B" delay, and the third paragraph contains an erroneous filing date. The Office will presume that paragraph three is a typographical error, and was inadvertently included in this petition.

2 In regards to the fourth paragraph of this petition, Petitioner will note that since this application is a national stage entry of a PCT application, it is the national stage commencement date that is to be used when calculating the "B" period of delay, and not the filing date. See 37 C.F.R. § 1.702(b): "[s]ubject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) *or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application* (emphasis added)."

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[3].

---

[3] 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

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 decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

Mail Date: 04/20/2010

Applicant	: Johan Dore Hansen	: DECISION ON REQUEST FOR
Patent Number	: 7583827	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/491,746	: 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 **1898** 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.

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APR 14 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,583,827	: DECISION ON REQUEST FOR
Hansen et al.	: RECONSIDERATION OF
Issue Date: September 1, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/491,746	: and
Filed: August 11, 2004	: NOTICE OF INTENT TO ISSUE
Atty Docket No.: 2836-0130PUS2	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 2, 2009,[1] 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, three hundred and eighty-nine (1389) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, three hundred and eighty-nine (1389) days is **GRANTED**[2].

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[1] It is noted that November 1, 2009 fell on a Sunday.

[2] The "B" delay period is 509 days. It is noted that patentee references August 11, 2004 as the actual filing date of this application and thus, presumably as the date used in calculating the B delay. Nonetheless, patentee properly calculated the PTA as 1389, consistent with the application commencement date: In an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). Further, in this instance, the national stage commencement date is Monday, April 5, 2004. The priority date of this application is October 3, 2001. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-month period. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, April 5, 2004. Thus, the over three period is 880 days, counting the number of days beginning on April 6, 2007 and ending on September 1, 2009, the date of issuance. See 1.703(b). Moreover, 371 days of the A delay overlap with the B delay. Therefore, the patent term adjustment is 1389 (880 + 509 (880 – 371)) days.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Deposit Account number 02-2448 in due course, as authorized. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, three hundred and eighty-nine (1389) days.**

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

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,583,827 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : **Hansen 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 880 days

Delete the phrase "by 880 days" and insert – by 1389 days --

2 1 JUN 2007

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Wenderoth, Lind & Ponack, LLP
2033 K Street, NW
Suite 800
Washington, D.C. 20006-1021

In re Application of	:	
MINAMI, et al.	:	
U.S. Application No.: 10/491,752	:	DECISION ON PETITION
PCT No.: PCT/JP01/08812	:	UNDER 37 CFR 1.182
International Filing Date: 05 October 2001	:	
Priority Date: None	:	
Attorney's Docket No.: 2004_0528A	:	
For: TRANSPARENT THIN FILM AND METHOD	:	
FOR PRODUCTION THEREOF	:	

This decision is issued in response to "Petition under 37 CFR 1.182 to Correct Error in PCT Transmittal Letter Form PTO-1390" filed 25 February 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. Deposit Account No. 23-0975 will be charged the required petition fee.

BACKGROUND

On 05 October 2001, applicants filed international application PCT/JP01/08812 which claimed no priority date. On 14 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 submission of the basic national fee was thirty months from the international filing date, i.e., 05 April 2004.

On 05 April 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, and an executed declaration. The Transmittal Letter and the executed declaration identified the application as a U.S. national stage of PCT/JP02/08812, filed 05 October 2001.

Based on the international application number listed on the first page of the Transmittal Letter and the other documents, the present application file was initially established as a national stage of PCT/JP02/08812.

On 25 February 2005, applicant filed the "Petition under 37 CFR 1.182 to Correct Error in PCT Transmittal Letter Form PTO-1390" 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.

On 16 March 2005, the USPTO mailed a Notification Of Acceptance indicating that the application was a national stage of PCT/JP01/08812 (the filing receipt also listed the application as a national stage of PCT/JP01/08812). However, the Notification set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 14 May 2004 and a 35 U.S.C. 371 completion date of 25 February 2005.

On 12 May 2005, applicants filed "Submission of Substitute Declaration" which identified the application as a national stage of PCT/JP01/08812, filed 05 October 2001.

DISCUSSION

As noted above, the first page of the Transmittal Letter filed by applicants to initiate this national stage application identified the submission as a national stage of PCT/JP02/08812. The present submission and the supplemental declaration filed by applicants confirm that the listing of PCT/JP02/08812 on the original application materials was incorrect, and that the application was intended as a national stage of PCT/JP01/08812.[1] Because the present application was (initially) created as a national stage of PCT/JP02/08812 based on applicants' original submission, correction of the application to indicate that it is a national stage of PCT/JP01/08812 requires a petition under 37 CFR 1.182. Deposit Account No. 23-0975 will be charged the required $400 petition fee.

The petition to treat the present application as a national stage of PCT/JP01/08812 is granted. The Notification Of Acceptance and filing receipt mailed 16 March 2005 are hereby vacated.

CONCLUSION

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

Deposit Account No. 23-0975 will be charged $400 as the required petition fee.

USPTO records will be corrected to indicate that the present application is the national stage of PCT/JP01/08812 with an international filing date of 05 October 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **12 May 2005**.

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, issuing a

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[1] It is noted that the cover page of the published international application WO/0310660 filed with the initial papers on 04 April 2004 correctly identified the international application as PCT/JP01/08812.

corrected Notification Of Acceptance and corrected filing receipt which properly identify the application as a national stage of PCT/JP01/08812 and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **12 May 2005**.

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

06/20/2007 SBASHEIR 00000003 230975 10491752
Sale Ref: 00000005 DA#: 230975 10491752
01 FC:1462 400.00 DA

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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SEP 23 2008

In re Application of :
Reginald Adkins :
Application No. 10/491,759 : ON PETITION
Filed: April 2, 2004 :
Attorney Docket No. ADKI0002 :

This is a decision on the petition, filed September 18, 2008, which is being treated under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that this application be withdrawn from issue in order to "include the omitted priority information listing the PCT and Provision in the application". An amendment under 37 CFR 1.312 was also filed. However, 37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Since the circumstances of the above-identified application do not fall within any exceptions under 37 CFR 1.313(c), the petition cannot be granted.

The appropriate avenue of relief for a grantable petition to withdraw this application from issue would be to file a Request for Continued Examination under 37 CFR 1.114, along with a petition under 37 CFR 1.78 to accept an unintentionally delayed claim for the benefit of the prior application.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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

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

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

By fax: **(571) 273-0025**
Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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RADER, FISHMAN & GRAUER PLLC
Lion Building
1233 20th Street N.W., Suite 501
Washington, DC 20036

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takuo Nakao *et al.* :
Application No. 10/491,783 :
Filed: April 06, 2004 :
Attorney Docket No. TEI-0129 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 20 September 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 02 March 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). An extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is 02 August 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 $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the office action of 02 March 2007 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Allen C. Ho (571) 272-6052.

This application is being referred to Technology Center AU 1796 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.

David Buccì
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Mutsuyuki Kochi	:	
Application No. 10/491,790	:	DECISION ON PETITION
Filed: April 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 023312-0110	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant's attorney. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

01 SEP 2004

#3

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Michael Gutman
37 KKL St.
Kryat Tivon 36080
Israel

In re Application of	:	
GUTMAN et al.	:	
Application No.: 10/491,822	:	DECISION ON PETITION
PCT No.: PCT/IL02/00626	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 31 July 2002	:	
Priority Date: 06 August 2001	:	
Attorney Docket No.: None	:	
For: TRANSFERABLE AND TRADABLE ANNUITIES, PENSION AND SIMILAR INSTRUMENTS		

The petition to revive under 37 CFR 1.137(b) filed 04 April 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicants have submitted the basic national fee of $385 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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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Murai	: DECISION ON APPLICATION
Application No. 10/491,827	: FOR PATENT TERM ADJUSTMENT
Filed: March 4, 2005	:
Atty. Dkt. No: Liquid Ejection	:
Head	:

This is a decision on the "REQUEST FOR RECONSIDERTION AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed October 20, 2009. Applicant requests that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected to reflect 70 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required for consideration of this matter under 37 CFR 1.705(b).

The request is **Dismissed-in-part and Granted-in-Part.**

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].

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 30, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely

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[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.

filed. Applicants dispute the reduction of 61 days of PTA for submission of a response to an Office action on May 11, 2009.

Applicant asserts that the reduction pursuant to 37 CFR 1.704(b) should be calculated as 0 days, not 61 days. Applicant notes that after an Office action was mailed on December 11, 2008, a new Office action was mailed on March 10, 2009 resetting the period for reply. Applicant contends that based on the mailing of the March 10, 2009 Office action and the response submitted on May 11, 2009, applicant delay is 0 days.

A review of the application history shows, applicant timely responded to the Office action on May 11, 2009 within the meaning of 37 CFR 1.704(b). Accordingly, no reduction is warranted. Thus, the 61-day reduction will be removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days.

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 R. Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Saturday
Date: 3/20/2010

PALM INTRANET

Time: 20:14:40

PTA Calculations for Application: 10/491827			
Application Filing Date:	03/04/2005	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	61
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	61		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	03/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	61		
97	07/28/2009	MAIL NOTICE OF ALLOWANCE			
96	07/28/2009	ISSUE REVISION COMPLETED			
95	07/28/2009	DOCUMENT VERIFICATION			
94	07/27/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
93	07/27/2009	NOTICE OF ALLOWABILITY			
92	05/11/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
91	05/11/2009	REFERENCE CAPTURE ON IDS			
90	05/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	88
89	06/12/2009	DATE FORWARDED TO EXAMINER			
88	05/11/2009	RESPONSE AFTER NON-FINAL ACTION		61	82
87	05/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	03/10/2009	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
85	03/09/2009	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
84	02/24/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
83	02/10/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
82	12/11/2008	MAIL NON-FINAL REJECTION			
81	12/08/2008	NON-FINAL REJECTION			
80	09/08/2008	CERTIFIED TRANSLATION OF SPECIFICATION FILED			

79	09/26/2008	DATE FORWARDED TO EXAMINER			
78	09/08/2008	RESPONSE AFTER NON-FINAL ACTION			
77	07/09/2008	MAIL NON-FINAL REJECTION			
76	07/07/2008	NON-FINAL REJECTION			
75	06/26/2008	DATE FORWARDED TO EXAMINER			
74	06/17/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	06/26/2008	DATE FORWARDED TO EXAMINER			
72	06/17/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
71	06/26/2008	DISPOSAL FOR A RCE / CPA / R129			
70	06/17/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	05/01/2008	FINISHED INITIAL DATA CAPTURE			
68	04/01/2008	EXPORT TO INITIAL DATA CAPTURE			
67	03/27/2008	MAIL NOTICE OF ALLOWANCE			
66	03/25/2008	ISSUE REVISION COMPLETED			
65	03/25/2008	DOCUMENT VERIFICATION			
64	03/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	03/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
62	03/17/2008	NOTICE OF ALLOWABILITY			
56	03/06/2008	DATE FORWARDED TO EXAMINER			
55	02/27/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
54	03/06/2008	DATE FORWARDED TO EXAMINER			
53	02/27/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	03/06/2008	DISPOSAL FOR A RCE / CPA / R129			
51	02/27/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	12/07/2007	MAIL FINAL REJECTION (PTOL - 326)			
49	12/06/2007	FINAL REJECTION			
48	10/02/2007	DATE FORWARDED TO EXAMINER			
47	09/28/2007	RESPONSE AFTER NON-FINAL ACTION			
46	06/28/2007	MAIL NON-FINAL REJECTION			
45	06/22/2007	NON-FINAL REJECTION			
44	06/19/2007	DATE FORWARDED TO EXAMINER			
43	06/15/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	06/19/2007	DATE FORWARDED TO EXAMINER			

41	06/15/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
40	06/19/2007	DISPOSAL FOR A RCE / CPA / R129			
39	06/15/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	03/16/2007	MAIL FINAL REJECTION (PTOL - 326)			
35	03/15/2007	FINAL REJECTION			
34	01/11/2007	DATE FORWARDED TO EXAMINER			
33	12/26/2006	RESPONSE AFTER NON-FINAL ACTION			
32	12/26/2006	MISCELLANEOUS INCOMING LETTER			
31	09/26/2006	MAIL NON-FINAL REJECTION			
30	09/22/2006	NON-FINAL REJECTION			
29	09/20/2006	DATE FORWARDED TO EXAMINER			
28	09/19/2006	AMENDMENT AFTER FINAL REJECTION			
27	07/13/2006	MAIL FINAL REJECTION (PTOL - 326)			
26	07/10/2006	FINAL REJECTION			
25	05/02/2006	NEW OR ADDITIONAL DRAWING FILED			
24	05/09/2006	DATE FORWARDED TO EXAMINER			
23	05/02/2006	RESPONSE AFTER NON-FINAL ACTION			
22	02/13/2006	MAIL NON-FINAL REJECTION			
21	02/10/2006	NON-FINAL REJECTION			
19	01/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	05/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	05/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	03/04/2005	REFERENCE CAPTURE ON IDS			
12	04/15/2005	CLEARED BY OIPE CSR			
11	04/15/2005	CLEARED BY OIPE CSR			
10	04/15/2005	CLEARED BY OIPE CSR			
9	04/09/2005	CLEARED BY OIPE CSR			
8	03/04/2005	371 COMPLETION DATE			
7	03/31/2005	APPLICATION DISPATCHED FROM OIPE			
6	03/31/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	03/04/2005	ADDITIONAL APPLICATION FILING FEES			
3	03/04/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

30 AUG 2004

#3

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

James F. Goedken
Wallstein Wagner & Rockey Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, IL 60606-6630

In re Application of UPDIKE, Kim Application No.: 10/491,840 PCT No.: PCT/US02/24332 Int. Filing Date: 31 July 2002 Priority Date: 01 August 2001 Docket No.: 7501 P 002 For: METHODS AND APPARATUS FOR FAIRLY PLACING PLAYERS IN BET POSITIONS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 06 April 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 06 April 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/22/07

TO SPE OF : ART UNIT 3736 Hindenburg Max

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/491853 Patent No.: 7220231

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Max Hindenburg
SPE

3736
Art Unit

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Alexandria, VA 22313-1450
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MAIL

OCT 14 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Mineo Tsushima, et al.
Application No. 10/491,894
Filed: April 15, 2004
For: **AUDIO DECODING APPARATUS AND AUDIO DECODING METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 7, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/491,923	William L King	P69865

INTERNATIONAL APPLICATION NO.
PCT/US01/44478

I.A. FILING DATE	PRIORITY DATE
11/28/2001	11/28/2000

01914
SAMSONITE CORPORATION
11200 EAST 45TH AVENUE
DENVER, CO 80239

CONFIRMATION NO. 7650
371 FORMALITIES LETTER

OC000000012460324

Date Mailed: 04/28/2004

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 05/21/2003
- Copy of the International Search Report filed on 05/21/2003
- Request for Immediate Examination filed on 05/21/2003
- U.S. Basic National Fees filed on 05/21/2003

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.
- **$130** Late oath or declaration Surcharge.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$130** for a Large Entity:

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.*

ANITA D JOHNSON

Telephone: (703) 305-3661

PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/491,923	PCT/US01/44478	P69865

FORM PCT/DO/EO/905 (371 Formalities Notice)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091130

DATE : March 19, 2009

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7119104

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:

There does not appear to be support in the description for changing the Japanese text to "base" or "reduction" or "hydrolysis" as shown for columns 7, 8, 9 and 10.

/Joseph K McKane/
Supervisory Patent Examiner, Art Unit 1626

16 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IP Strategies, PC
12 ½ Wall Street
Suite 1
Asheville, NC 28801

In re Application of	:	
KREMPL	:	
U.S. Application No.: 10/491,937	:	DECISION ON PETITION
PCT No.: PCT/EP02/10694	:	
Int. Filing Date: 24 September 2002	:	UNDER 37 CFR 1.181
Priority Date: 05 October 2001	:	
Attorney Docket No.: GRUNP33	:	
For: METHOD AND SYSTEM FOR THE AUTHORIZED DECODING OF ENCODED DATA	:	

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed 30 September 2005 and again on 26 March 2007 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181 to accord a 35 U.S.C. 371 date of 29 September 2004. No petition fee is required.

BACKGROUND

On 24 September 2002, applicant filed international application PCT/EP02/10694 which claimed priority to a previous application filed 05 October 2001. A copy of the international application was transmitted to the United States on 17 April 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, 05 April 2004.

On 05 April 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 and a preliminary amendment.

On 29 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 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 the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 04 October 2004, applicant responded with an executed declaration. The transmittal form contained certification under 37 CFR 1.8 that the filing had been deposited for mailing on

29 September 2004 and thus was considered timely filed.

On 21 October 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a date of receipt of the 35 U.S.C. 371 requirements of 04 October 2004.

On 30 September 2005 and 26 March 2007, applicant filed the present petition under 37 CFR 1.181 seeking a corrected filing receipt indicating a date of receipt of the 35 U.S.C. 371 requirements of 29 September 2004.

DISCUSSION

37 CFR 1.8(a) explains that:

Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. **The actual date of receipt will be used for all other purposes**. (Boldness added)

As detailed above, while the filing in question was certified as having been deposited on 29 September 2004, the actual date of receipt in the USPTO was 04 October 2004. As such, the declaration is considered timely filed with a filing date of 04 October 2004. This date was correctly accorded on the Form PCT/DO/EO/903 and official filing receipt. For that reason, applicant's petition under 37 CFR 1.181 can not be granted.

CONCLUSION

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

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181."

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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POLLACK PC
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK, NY 10017

COPY MAILED

FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Nicola Romeo et al	:	
Application No. 10/491,938	:	DECISION ON PETITION
Filed: April 5, 2004	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 741014.1031	:	

This is a decision on the petition under 37 CFR 1.313(a), filed February 3, 2006 (certificate of mailing date of January 31, 2006), requesting withdrawal of the above-identified application from issue.

The petition is **DISMISSED** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on December 17, 2004, requiring payment of the issue and publication fees on or before March 17, 2005 to avoid the abandonment of the application. There is no indication that the issue and publication fees were timely submitted. Accordingly, this application became abandoned on March 18, 2005, as noted in the Notice of Abandonment mailed November 11, 2005.

In view of the above, the petition to withdraw from issue is rendered moot by the abandoned status of the application.

In reviewing the reasons for withdrawal set forth in the petition, the relief sought is more appropriately a petition under 37 CFR 1.181 requesting review of the Examiner's actions in this case. It is noted that such a petition under 37 CFR 1.181 was filed on the same date as the filing of the instant petition to withdraw from issue. Accordingly, the filing of the petition under 37 CFR 1.313(a) for the reasons given would not have constituted a good and sufficient reason for withdrawing this application from issue, even if the application were not deemed to be abandoned.

No further action in this case can be undertaken until the application has been restored to pending status. Petitioner may wish to consider promptly filing a petition under 37 CFR 1.137 requesting revival of this application.

If petitioner did in fact timely submit the issue and publication fees, petitioner should file a petition requesting withdrawal of the holding of abandonment and submit evidence in support of the timely submission.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/491,938	04/05/2004	Nicola Romeo	741014.1031	2580

41226 7590 05/31/2006

POLLACK, P.C.
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK, NY 10017

EXAMINER
SMITH, BRADLEY

ART UNIT	PAPER NUMBER
2891	

DATE MAILED: 05/31/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POLLACK, P.C.
The Chrysler Building
132 East 43rd Street, Suite 760
New York, NY 10017

MAY 24 2006

In re Application of:
ROMEO *et al.*
Serial No.: 10/491,938
Filed: April 05, 2004
Attorney Docket No.: **741014.1031**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on petition filed February 03, 2006, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment in the above-identified application under. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to a Notice of Allowance and Issue Fee Due (Notice) mailed on December 17, 2004. A Notice of Abandonment was mailed on November 11, 2005.

Petitioner asserts that through numerous communications with the examiner prior to March 17, 2005, the petitioner was assured that the Notice was going to be withdrawn and a new one issued. It is further asserted that inconsistencies with the oath/declaration were noted internally to the USPTO, and those issues were never communicated to the petitioner for correction.

A review of the application file wrappers reveals that the application was not clearly in condition for allowance, in that all issues had not been resolved, at the time of mailing the Notice on December 17, 2004. As such, the mailing of the Notice was premature. Accordingly, the abandonment of the application was premature.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status. In order to clarify the record, the Notice of Allowance and Issue Fee Due mailed on December 17, 2004, is hereby vacated and the indicated allowance of the claims is hereby withdrawn. The application will be returned to the examiner for further prosecution.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

26 JUN 2006

#5

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Chris T. Mizumoto
DARBY & DARBY P.C.
P.O Box 5257
New York, New York 10150-5257

In re Application of	DECISION ON
Yutaka Kuroda et al	
PCT No.: PCT/JP02/10351	
Application No.: 10/491,941	
Int. Filing Date: 04 October 2002	PAPERS FILED
Priority Date: 05 October 2001	
Attorney's Docket No.: 09873/0200983-US0	
For: METHOD OF PRESUMING	
DOMAIN LINKER REGION OF PROTEIN	UNDER 37 CFR 1.42 & 1.181

This is a decision on the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC §371" filed 08 July 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 05 April 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). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 13 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two (2) months from 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, a surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date will be required under 37 CFR 1.492(e).

In response to the Notification mailed on 13 May 2005, applicants filed a declaration signed by Susumu Miyazaki and Mihoko Miyazaki as legal representatives of the co-joint inventor now deceased Satoshi Miyazaki.

Moreover, applicants indicate that the correct name of the third inventor is "Takanori Tanaka" and not as listed "Yoshinori Tanaka."

DISCUSSION

A review of the application file reveals that the declaration does not comply with 37 C.F.R. §1.497(b)(2).

Because the co-joint inventor Satoshi Miyazaki is deceased and Susumu Miyazaki and Mihoko Miyazaki have been appointed as the legal representatives for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventor's citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance the information provided below the signature of the legal representatives is that of the deceased co-joint inventor, but the declaration does not provide the necessary information for the legal representatives. Although, this information is provided on the declaration of the legal representatives but this is not a substitute for not including in the declaration. Thus, the citizenships, residences and mailing addresses of the legal representatives need to be provided in the declaration as required under 37 C.F.R. §1.497(b)(2).

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

37 CFR 1.181: Correction of Name

The correct name of the third inventor is "Takanori Tanaka" as indicated in the declaration submitted. The affidavit provided states that his correct name is Takanori Tanaka and the mistake was due to a mistranslation. **Takanori Tanaka** correct names will be reflected in the U.S. national stage processing.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

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

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 "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.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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27 APR 2007

Chris T. Mizumoto
DARBY & DARBY P.C.
P.O Box 5257
New York, New York 10150-5257

In re Application of	:	DECISION ON RENEWED
Yutaka Kuroda et al	:	
PCT No.: PCT/JP02/10351	:	
Application No.: 10/491,941	:	
Int. Filing Date: 04 October 2002	:	PAPERS FILED
Priority Date: 05 October 2001	:	
Attorney's Docket No.: 09873/0200983-US0	:	
For: METHOD OF PRESUMING	:	
DOMAIN LINKER REGION OF PROTEIN	:	UNDER 37 CFR 1.42 & 1.181

This is a decision on the "Renewed Submission Under 37 CFR 1.42," filed on 15 February 2007.

BACKGROUND

In a decision from this office dated 26 June 2006, the papers filed on 08 July 2005 were not accepted under 37 CFR 1.42.

On 15 February 2007, applicants submitted the renewed submission under 37 C.F.R. §1.42.

DISCUSSION

Applicants have provided a supplemental executed declaration, which sets forth that Susumu MIYAZAKI and Mihoko MITAZAKI are the legal representatives of the deceased inventor Satoshi MIYAZAKI, and it also sets forth their citizenship and residence.

Accordingly, the requirements under 37 CFR 1.42 are satisfied and the declaration is acceptable at this time.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **15 February 2007**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

05 AUG 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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Anthony R. Kinney
Mallinckrodt, Inc.
675 McDonnell Boulevard
P.O. Box 5840
St. Louis, Missouri 63134

In re Application of	:	
DE TURK, et al.	:	
Application No.: 10/491,943	:	
PCT No.: PCT/US02/32812	:	DECISION
Int. Filing Date: 15 October 2002	:	
Priority Date: 15 October 2001	:	
Atty. Docket No.: 1546 WO/US	:	
For: RADIOPHARMACEUTICAL CAPSULE	:	
DISPENSING SYSTEM	:	

This decision is in response to applicant's facsimile correspondence filed 02 July 2004 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as an unsigned communication.

BACKGROUND

On 15 October 2001, applicant filed the international application, which claimed a priority date of 15 October 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 April 2004.

On 06 April 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; a partially executed declaration and power of attorney and a preliminary amendment.

On 09 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 oath or declaration of the inventors, signed by inventor Ken De Turk, 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 02 July 2004, applicant faxed the present correspondence which included copies of the previously filed declaration and a petition and decision from the international application. The papers were not signed by an individual registered to practice before the USPTO and is therefore being treated as an unsigned communication.

DISCUSSION

Applicant is advised that the papers filed 02 July 2004 as they were not signed by an individual registered to practice before the USPTO do not constitute a proper response to the Form PCT/DO/EO/905 mailed 09 June 2004. Thus, the period for responding continues to run. In addition, applicant is advised that a petition under 37 CFR 1.425 and subsequent decision granting the petition have no merit in the National stage in the United States. If applicant is arguing that inventor De Turk refuses to sign the declaration or can not be located after diligent effort, the proper avenue of redress is 37 CFR 1.47(a). Specifically, four items are needed:

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

Applicant is further directed to the outstanding fees noted on the form PCT/DO/EO/905 and the provisions of 37 CFR 1.136(a) allowing for petitions for extensions of time to respond.

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

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29 MAR 2005

#6

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Kenneth D. Goetz
Mallinckrodt, Inc.
675 McDonnell Boulevard
P.O. Box 5840
St. Louis, MO 63134

In re Application of	:	
DE TURK, et al.	:	DECISION ON PETITION
Serial No.: 10/491,943	:	
PCT No.: PCT/US02/32812	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 15 October 2002	:	
Priority Date: 15 October 2001	:	
Atty Docket No.: 1546WO/US	:	
For: RADIOPHARMACEUTICAL CAPSULE	:	
DISPENSING SYSTEM	:	

This decision is in response to the applicant's "Petition With Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 CFR § 1.47)" filed 13 September 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 August 2004, applicant was mailed a decision informing applicant that the time period for the Form PCT/DO/EO/905 continued to run and advised applicant to file a petition under 37 CFR 1.47(a).

On 13 September 2004, applicant filed the present petition accompanied by a petition for a one-month extension of time. With the filing of the one-month extension of time and authorization to charge the appropriate fee, the present petition is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite petition fee required by 37 CFR 1.17(g); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant has satisfied items (1), (3) and (4) above.

As to item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be

demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." It is unclear from the present petition and accompanying documents whether Mr. Deturk has been presented with a complete copy of the application papers as required. Applicant has included a signed statement from Ms. Tammy Torres indicating that on 15 August 2002 she sent a copy "of the application related to US serial no. 10/491,943." However, the copy of the cover letter from Ms. Torres to Mr. Deturk does not indicate that a copy of the application papers is being sent. In addition, the letter does not itemizes the "Enclosures" as such there is no written proof that a copy of the application papers was mailed to the inventor. Coupled with the fact that the letter was mailed two months before the filing of the international application, further explanation is necessary regarding the presentation of a declaration and papers to Mr. Deturk before the petition can be granted.

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

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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14 APR 2006

#10

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In re Application of DE TURK, et al. Serial No.: 10/491,943 PCT No.: PCT/US02/32812 Int. Filing Date: 15 October 2002 Priority Date: 15 October 2001 Attorney Docket No.: 1546WO/US For: RADIOPHARMACEUTICAL CAPSULE DISPENSING SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's faxed correspondence filed 05 April 2006 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a petition to withdraw the holding of abandonment in this application. No petition fee is required.

BACKGROUND

On 29 March 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any requests for reconsideration.

On 28 March 2006, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing application that the present application was abandoned as to the National stage in the United States for failure to respond to the decision mailed on 29 March 2005.

On 06 December 2004, applicant filed the present correspondence stating that a response was filed on 18 May 2005 in the USPTO. Applicant included a copy of a declaration executed by the previously non-signing inventor, Ken De Turk.

DISCUSSION

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is

dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The Manual of Patent Examining Procedure (MPEP) section 711.03(c) details that as stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

Applicant has satisfied items (1) and (2) above. However, applicant's present statement as to the previous filing is not sufficient to satisfy item (3) and therefore it is not possible to grant applicant's petition at this time.

As stated above, a successful petition to withdraw the holding of abandonment pursuant to 37 CFR 1.8 will result in the application being forwarded for continued processing with the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4)date being the receipt date of the duplicate copy of the subject declaration; 05 April 2006. Applicant may prefer to petition to have the abandonment withdrawn through the use of a stamped return postcard. Section 503 of the MPEP explains 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.

If applicant can provide such a postcard for the 18 May 2005 filing, that date would be the accorded 35 U.S.C. 371(c)(1), (c)(2) and (c)(4)date.

CONCLUSION

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

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be directed to 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 JUN 2006

#12

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P.O. Box 5840
St. Louis, MO 63134

In re Application of	:	
DE TURK, et al.	:	
Serial No.: 10/491,943	:	DECISION ON RENEWED
PCT No.: PCT/US02/32812	:	
Int. Filing Date: 15 October 2002	:	PETITION UNDER
Priority Date: 15 October 2001	:	
Attorney Docket No.: 1546WO/US	:	37 CFR 1.181
For: RADIOPHARMACEUTICAL CAPSULE	:	
DISPENSING SYSTEM	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.181" filed 08 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 April 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any requests for reconsideration.

On 08 May 2006, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 14 April 2006,

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has

no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicant previously satisfied items (1) and (2). With the filing of the present declaration of Barbara A. Krisch applicant has satisfied item (3) and it is proper to grant applicant's renewed petition at this time.

A review of the filed declaration finds that applicant has now satisfied all of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements.

CONCLUSION

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

The application has an international filing date of 15 October 2002 under 35 U.S.C. 363 and will be given a date of **05 April 2006** 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 (DO/EO/US) for treatment in accordance with this decision.

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

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SEP 1 4 2005

Technology Center 2100

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of: Shinichi NAKAI, et al.
Application No. 10/491,963
Filed: April 08, 2004
For: CONTENT PROCESSING APPARATUS AND CONTENT PROTECTION PROGRAM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition(s) filed June 17, 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. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

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

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

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

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

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

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10 APR 2007

Grant H. Peters, Esq.
Barnes & Thornburg, LLP
P.O. Box 2786
Chicago, IL 60690-2786

In re Application of	:
John Pratt	:
Serial No. 10/491,977	: DECISION ON PETITION
PCT No.: PCT/US02/31911	:
Int. Filing Date: 04 October 2002	:UNDER 37 CFR 1.78(a)(6)
Priority Date: 04 October 2001	:
Filed: July 13, 2004	:
Attorney Docket No. 28861-95841	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 24 January 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

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

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

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

Any inquiries concerning this decision may be directed to Derek Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3676 for appropriate action on the amendment submitted 24 January 2007, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/326,943.

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/491,977	07/13/2004	3676	2602	28861-95841	22	4

CONFIRMATION NO. 3868

23644
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

CORRECTED FILING RECEIPT

OC000000023316272

Date Mailed: 04/10/2007

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

Applicant(s)

John Pratt, Laguna Niguel, CA;
Timothy S Rozema, Ladera Ranch, CA;

Power of Attorney:

Grant Peters--35977

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US02/31911 10/04/2002
which claims benefit of 60/326,943 10/04/2001

Foreign Applications

If Required, Foreign Filing License Granted: 04/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/491,977

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pressure sensing dead bolt

Preliminary Class

292

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of Sachiyo Tada et al Application No. 10/491,981 Filed: April 7, 2004 Attorney Docket No. Q77703	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 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 August 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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.*

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SEP 09 2009

OFFICE OF PETITIONS

BROWDY AND NEIMARK, P.L.L.C.
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WASHINGTON DC 20001-5303

In re Patent No. 7,522,615	:	DECISION ON REQUEST
Binder	:	FOR RECONSIDERATION
Issue Date: April 21, 2009	:	OF PATENT TERM ADJUSTMENT
Application No. 10/491,989	:	
Filed: April 7, 2004	:	
Attorney Docket No. BINDER22	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed June 22, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one thousand two hundred eighty-seven (1,287) days to one thousand four hundred fourteen (1,414) days. The request will be treated under 37 CFR §1.705(d).

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 1,287 days.

On April 21, 2009, the above-identified application matured into U.S. Patent No. 7,522,615 with a patent term adjustment of 1,287 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

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

Patentee maintains that a portion of period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 127 of 745 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 1,287 days do not overlap, as these periods do not occur on the same day.

Patentee argues that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is 745 days, which is the number of days in the period beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(f) in an international application, April 8, 2007, and ending on the date the patent was issued, April 21, 2009. The commencement date and the § 371(c) fulfillment date in this case are the same date, due to applicant's request for early processing and applicant's submission of § 371(c) requirements prior to the 30 month date.

Patentee asserts that in addition to the three year delay period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 1,287 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date the application fulfilled the requirements of 35 U.S.C. §371 in an international application, pursuant to § 1.702(a)(1). A Notice of Allowance was mailed on December 15, 2008, which was 14 months and 1,287 days after the § 371 fulfillment date.

Under 37 CFR § 1.703(f), Patentee is 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 Patentee failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 0 days for applicant delay is not in dispute. Patentee asserts that the total period of Office delay is the sum of the period of Three Year Delay (745 days per patentee's calculation) and the period of Examination Delay (1,287 days, not in dispute) **to the extent that these periods of delay are not overlapping.**

Patentee contends there is an overlap of 618 days, from April 8, 2007 to December 15, 2008. Patentees contend that a portion of the period of delay of 1,287 days for the Office's failure to

mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date the application fulfilled the requirements of 35 U.S.C. §371 in an international application, pursuant to § 1.702(a)(1), from June 8, 2005 to December 15, 2008, overlaps with a portion of the Three Year Delay period, from April 8, 2007 to April 21, 2009. Patentee asserts that the overlapping period is the 618 days running from April 8, 2007 to December 15, 2008.

Accordingly, patentee submit that the total period of Office Delay is 1,414 days, which is the sum of the period of Three Year Delay (745 days) and the period of Examination Delay (1,287 days), reduced by the period of overlap (618 days, per patentee's calculation).

As such, patentees assert entitlement to a patent term adjustment of 1,414 days (745 + 1,287 reduced by 618 overlap -0 for applicant delay).

The patent issued 3 years and 745 days after the application's commencement date. The Office agrees that the action detailed above was not taken within the specified time frames, and thus, a period of adjustment of 1,287 days was entered. At issue is whether Patentee should accrue 127 (adjusted for overlap, per patentee's definition of overlap) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 1,287 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 745 days overlap. Patentee's interpretation of the period of overlap has been considered and found to be incorrect. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the

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

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

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

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113,

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the application's commencement date through the date it matured into Patent No. 7,522,615, April 7, 2004 to April 21, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

1,287 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. The 745 days for Office delay in issuing the patent overlaps with the 1,287 accorded during the pendency of the application. During that time, the issuance of the patent was delayed by 1,287 days, not 1,287 + 127 (per patentee's definition of overlap) days. The Office took 14 months and 1,287 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1,287 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 745 days after its commencement date. The Office did not delay 1,287 days and then an additional 127 days. Accordingly, 1,287 days of patent term adjustment was properly entered since the period of delay of 745 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,287 days attributable to ground specified in § 1.702(a)(1). Entry of both periods is not warranted. Not only did the 618 days overlap, but rather the entire 745 days overlapped. 1,287 days was properly determined to be the actual number of days that the issuance of the patent was delayed, considering the 745 days over three years.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 1,287 days.

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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).

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

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

3 JAN 2005

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CLEVELAND OH 44114

In re Application of	:	DECISION ON
WAENY, Martin	:	
Application No.: 10/491,999	:	PETITION UNDER
PCT No.: PCT/EP01/11673	:	
Int. Filing Date: 09 October 2001	:	37 CFR § 1.47(b)
Priority Date: None	:	
Attorney Docket No.: HU-7056	:	
For: OPTOELECTRONIC SENSOR	:	

This is a decision on applicant's petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 25 October 2004.

BACKGROUND

On 09 October 2001, applicant filed international application PCT/EP01/11673, which designated the US. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 April 2004.

On 06 April 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 24 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 inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 25 October 2004, applicant submitted the instant petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*: a copy of a transmittal letter signed by Dr. Tobias Bremi; a copy of a declaration by Rene Mangold and Dr. Peter Mario Schwider; a copy of a letter to nonsigning inventor Martin Waeny; a copy of an employment contract; a copy of a shareholders agreement; and the surcharge under 37 CFR 1.492(e).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As to item (1), the petition fee has been charged to Deposit Account 20-0090. Thus, item (1) has been met.

Items (3) and (6) have also been met.

Item (2) has not been met. The declaration of facts by Rene Mangold and Dr. Peter Mario Schwider has been considered. 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. Statements based on hearsay will not normally be accepted. The declaration by Rene Mangold and Dr. Schwider does not appear to be based on firsthand knowledge. While the declaration states that several attempts were made to contact Mr. Waeny by telephone and mail, the only attempt which is discussed is a single attempt made by certified mail. This correspondence is said not to have been collected. Accordingly, it is not clear if the inventor is no longer at this address and his whereabouts are unknown, or if he knew about the mailing but did not collect it. If he knew about the mailing and did not collect it, then it may be appropriate to attempt to establish a refusal to execute the application. See MPEP § 409.03(d). It is also noted that 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). A translation of the copy of the letter to Mr. Waeny has not been provided and thus it is unclear whether the application papers were included in the correspondence. If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as certified mail return receipt that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. Also, if it is being alleged that the nonsigning inventor cannot be found or reached, it appears that additional efforts to locate him should be made. For example, it does not appear that an effort to find his current employer was made, nor was an internet search for the inventor done. Copies of any internet searches should be provided.

Item (4) has not been met. An oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor has not been provided.

Item (5) has not been met. Copies of an employment contract and a shareholders agreement have been provided. However, no translations of these documents were submitted. Moreover, for an agreement that states that it is dependent on certain conditions being met (e.g.,

the invention must be made in execution of the inventor's employment duties) for the invention to belong to the employer, a statement of facts by someone with firsthand knowledge of the circumstances in which those conditions have been met is required. See MPEP § 409.03(f). No such statement of facts has been provided. The transmittal letter of Dr. Tobias Bremi urges that the Swiss code of obligations and Swiss case law leave no doubt that the present invention belongs to Photonfocus. However, as noted in MPEP § 409.03(f), such a legal analysis should be in the form of an appropriate legal memorandum prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. Additionally, a copy in the English language of any statute or court decisions relied upon should be provided.

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

MPEP § 409.03(f).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". 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

20 SEP 2005

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In re Application of WAENY Application No.: 10/491,999 PCT No.: PCT/EP01/11673 Int. Filing Date: 09 October 2001 Priority Date: None Attorney's Docket No.: HU-7056 For: OPTOELECTRONIC SENSOR	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed 29 July 2005, to permit the applicant to file the above-captioned application on behalf of the non-signing inventor Martin Waeny. In a decision dated 03 January 2005, applicant's petition filed 25 October 2004 was dismissed because applicant did not provide (1) an oath or declaration by the 37 CFR 1.47(b) applicant, (2) factual proof that the inventor refuses to sign the application or cannot be reached after diligent effort, and (3) proof that the 37 CFR 1.47(b) applicant has sufficient propriety interest in the application.

BACKGROUND

Applicant has present an acceptable declaration signed by Rene Managold, CEO of Photonfocus AG. Applicant has established that Photonfocus has sufficient propriety interest in the application. See the legal memorandum of Stefan Day and the declaration of Rene Managold. Applicant has present sufficient proof that the inventor was presented with the application papers (specification, including claims, drawings, and oath or declaration). See declaration of Rene Managold.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration

by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. With the filing of applicant's renewed petition, applicant has satisfied items (1) through (6) above.

CONCLUSION

The petition under 37 CFR 1.47(b) is GRANTED.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 09 October 2001 under 35 U.S.C. 363, and a date of 29 July 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 inventor at his last known address of record.

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

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

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In re Application of :
Babiuk, et al. :
Application No. 10/492,002 : ON PETITION
Filed: April 6, 2204 :
Attorney Docket No. MER 04-021 US :
For: CPG FORMULATIONS AND
RELATED METHODS

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2007, 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 February 26, 2007, which set a one month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on March 27, 2007. A Notice of Abandonment was mailed on October 9, 2007.

Applicants have submitted a response to the Restriction Requirement in the form of an election with traverse, a proper statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the $1,540.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 1648 for consideration of the election with traverse filed on October 15, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

21 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MICROBAN PRODUCTS COMPANY
1115 VANSTORY DRIVE
SUITE 125
HUNTERSVILLE, NC 28078

In re Application of ONG et al	:	
U.S. Application No.: 10/492,008	:	
PCT Application No.: PCT/US02/32228	:	
Int. Filing Date: 09 October 2002	:	DECISION
Priority Date Claimed: 10 October 2001	:	
Attorney Docket No.: 2001.12-1	:	
For: ANTIMICROBIAL RADIATION CURABLE	:	
COATING	:	

This is in response to applicant's "Petition to Accept Declaration Under 37 CFR 1.47" filed 06 April 2004, which is being treated as a request for status under 37 CFR 1.42, and the "Petition to Accept Filing Under 35 USC 118 and 37 CFR 1.47" filed 06 April 2004, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 09 October 2002, applicant filed international application PCT/US02/32228, which claimed priority of an earlier United States application filed 10 October 2001. The thirty-month period for paying the basic national fee in the United States expired on 10 April 2004.

On 06 April 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), the present request for status under 37 CFR 1.42, and the present petition under 37 CFR 1.47(a).

On 04 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.

DISCUSSION

I. Request for Status Under 37 CFR 1.42

The declaration filed 06 April 2004 indicates that inventor Robert Watterson is deceased. 37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

In the present case, applicant states that the legal representative of Robert Watterson's estate is Julia Watterson. According to the petition under 37 CFR 1.47(a), applicant has been unable to obtain the signature of Julia Watterson on the declaration. The lack of the legal representative's signature will be treated under 37 CFR 1.47(a). However, the declaration filed 06 April 2004 does not satisfy the requirements of 37 CFR 1.497(b)(2) because it does not list the name, citizenship, residence, and mailing address of the legal representative.

II. Petition Under 37 CFR 1.47(a)

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 own behalf and on behalf of the nonsigning legal representative.

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.

Petitioner has provided sufficient evidence that legal representative Julia Watterson refuses to sign the application papers. More particularly, Ms. Watterson made an express written refusal to cooperate in a letter to Stan Baker dated 08 April 2004. This letter also indicates that a copy of the application papers were received by Mr. Watterson prior to her written refusal to sign. Accordingly, it can be concluded with reasonable certainty that the legal representative of Robert Watterson 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 legal representative.

CONCLUSION

For the reasons set forth in §I above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.47(a) is GRANTED.

If reconsideration on the merits of the request for status under 37 CFR 1.42 is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

16 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ginger R. Dreger
Heller Ehrman White & McAuliffe LLP
275 Middlefield Road
Menlo Park, CA 94025

In re Application of	:	
RUDOLPH et al.	:	
Application No.: 10/492,012	:	DECISION ON PETITION
PCT No.: PCT/US02/31810	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 October 2002	:	
Priority Date: 26 October 2001	:	
Attorney Docket No.: 39768-0001	:	
For: PHARMACEUTICAL FORMULATIONS COMPRISING SUBSTITUTED XANTHINE COMPOUNDS	:	

The petition to revive under 37 CFR 1.137(b) filed 12 June 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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 $65 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
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Fax: (571) 273-0459

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

Mail Date: 04/20/2010

Applicant	: Lieping Chen	: DECISION ON REQUEST FOR
Patent Number	: 7651686	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **637** 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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FISH & RICHARDSON P.C.
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MINNEAPOLIS, MN 55440-1022

Mail Date: 05/17/2010

Applicant : Lieping Chen
Patent Number : 7651686
Issue Date : 01/26/2010
Application No : 10/492,056
Filed : 08/17/2004

: 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 **705** 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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2 5 SEP 2008

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Edgar E Spielman Jr
Patent & Trademark Division
Allbemarle Corporation
451 Florida Street
Baton Rouge LA 70801-1765

In re Application of	:
NALEPA	:
Application No. 10/492,073	: DECISION ON PETITION
Filed: 08 April 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SU-7244	: and 1.78(a)(6)

This is a decision on the petition, filed 02 July 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed PCT Application No. PCT/US02/32300 filed on 09 October 2002. Because petitioner seeks recognition of a benefit claim to the provisional application set forth in the concurrently filed amendment, the petition has been treated as a petition under 37 CFR 1.78(a)(3) and 1.78 (a)(6).

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one in the first sentence of the amended specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the

provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286.

BMU

Boris Milef
Sr. PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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06 APR 2009

Edgar E Spielman Jr
Patent & Trademark Division
Allbemarle Corporation
451 Florida Street
Baton Rouge LA 70801-1765

In re Application of	:
NALEPA	:
Application No. 10/492,073	: DECISION ON PETITION
Filed: 08 April 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. SU-7244	:

This is a decision on the petition, filed 29 January 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is hereby **GRANTED**.

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

(1) the reference required by 35 U.S.C.§119(e)and 37 CFR §1.78(a)(5)(ii) 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)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an amended Page 1 of the specification, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted and (3), a proper statement of unintentional delay has been submitted.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §119(e) to the prior-filed provisional application satisfies

the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286.

All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application will be forwarded to Technology Center Art Unit 1616 for continued examination.

Bryan Lin

Bryan Lin

PCT Legal Examiner

Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE NY 11747

MAILED

MAR 31 2010

OFFICE OF PETITIONS

In re Application of	:	
Darnis et al.	:	
Application No. 10/492,084	:	DECISION ON PETITION
Filed: May 10, 2004	:	
Attorney Docket No. 119390	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 8, 2009, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 9, 2009. *See* MPEP 1215.04. A Notice of Abandonment was mailed December 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Further, 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.

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

The file is now being forwarded to Technology Center AU 3773 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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Paper No.

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MAILED

AUG 31 2009

OFFICE OF PETITIONS

In re Patent No. 7,465,441	:	
Dreano et al.	:	DECISION DISMISSING
Application No. 10/492,087	:	REQUEST FOR
Issue Date: December 16, 2008	:	RECONSIDERATION OF
Filed: October 25, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
DREANO1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed on February 18, 2009. Patentee requests that the determination of patent term adjustment be corrected from two hundred ninety-nine (299) days to six hundred seventeen (617) days.

The request for reconsideration of patent term adjustment is **DISMISSED AS UNTIMELY FILED.**

On February 18, 2009, patentee submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 617 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 736 (418 + 318) days as these periods do not occur on the same day. Further, given the applicant delay of 119 days, patentee asserts entitlement to 617 (736 - 119) days of patent term adjustment. The application is untimely. As stated in MPEP 2735, 1.705(d) provides that:

> 37 CFR 1.705(d) specifically provides that if there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. **37 CFR 1.705(d) also provides that if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of 37 CFR 1.705(b). The two month period is not extendable. 37 CFR 1.705(e)**
>
> (emphasis added)

37 CFR 1.705 states, in pertinent part:

> (d) If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. **If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section.** Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.
>
> **(e) The periods set forth in this section are not extendable.**
>
> (emphasis added)

The patent issued December 16, 2008. It is noted that February 16, 2009 was a Federal holiday. Accordingly, any application for patent term adjustment was required to be filed on or before Tuesday, February 17, 2009, the next business day.[1] The subject

[1] 37 CFR 1.7(b).

petition was filed on February 18, 2009, however, which is after February 17, 2009.

37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

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

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

Alesia Brown P/

Anthony Knight
Supervisor
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/492,095	04/08/2004	Evangelos Mamas	CA920010063US1	4252

46320 7590 02/19/2010
CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
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EXAMINER
BARQADLE, YASIN M

ART UNIT	PAPER NUMBER
2456	

MAIL DATE	DELIVERY MODE
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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

FEB 19 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: MAMAS, Evangelos
Application No. **10/492,095**
Filed: April 08, 2004
Docket No. CA920010063US1
Title of Invention: WIRELESS MESSAGING SERVICES USING PUBLISH/SUBSCRIBE SYSTEMS

DECISION ON PETITION UNDER 37 C.F.R. § 1.182

This is a decision on the petition filed on December 21, 2009 under 37 CFR § 1.182 requesting that the Examiner consider Reply Brief filed July 26, 2009. This Reply Brief in accordance to Examiner's communication mailed October 19, 20029 was deemed non-compliance under 37 CFR 41.41(a).

Petitioner traverses Examiner's communication of the alleged non-compliant Reply Brief as improper on the grounds that the dictionary definition cited in the reply brief were in response to new arguments first raised in the Examiner's Answer and are appropriate and that dictionary definitions are not considered to be "evidence" in patent matters but are rather considered as authority similar to legal citations.

Petitioner requests that the Appeal be remanded back to the Examiner with the instructions that the Examiner consider the Reply Brief. In the alternative, Appellant respectfully requests that the Examiner's new position with regard to the claim construction as to the term "prompt" be treated as a new ground of rejection under 37 C.F.R. § 41.39(b), and Appellant's citation to a dictionary definition be treated as a request that prosecution be reopened under 37. C.F.R. § 41.39(b)(2) (see p. 5).

The above mentioned petition is **DISMISSED**.

RELEVANT PROSECUTION HISTORY

February 17, 2009	Appeal Brief was filed by Applicant.
May 28, 2009	Examiner's Answer to Appeal Brief was filed.

July 26, 2009 Reply Brief was filed by Applicant.

October 19, 2009 Miscellaneous Action with SSP was mailed by Examiner stating that:

> The reply brief filed on July 26, 2009 has not been considered because it is not in compliance with 37 CFR 41.4 l(a). The reply brief is accompanied by a response, an affidavit, or other evidence such definition provided by www.thefreedictionary.com for "prompt" on page 3 (See MPEP § 1208 for details), The Examiner simply pointed out how the word "prompt" is described in the Appellant's specification. That does not amount to new evidence or a new issue.

STATUTE, REGULATION, AND REXAMINATION PROCEDURES

MPEP §1208 Reply Briefs and Examiner's Responses to Reply Brief

37 CFR 41.41. Reply brief states:

(a) (1) Appellant may file a reply brief to an examiner's answer within two months from the date of the examiner's answer.

(2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

(b) A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with paragraph (a) of this section.

37 CFR 41.33(c)(2) states:

All other affidavits or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by §§ 41.39(b)(1), 41.50(a)(2)(i) and 41.50(b)(1).

37 CFR 41.39: Examiner's answer states:

(b) If an examiner's answer contains a rejection designated as a new ground of rejection, appellant must within two months from the date of the examiner's answer exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the new ground of rejection: ...

(2) Maintain appeal.

Request that the appeal be maintained by filing a reply brief as set forth in § 41.41. Such a reply brief must address each new ground of rejection as set forth in § 41.37(c)(1)(vii) and should follow the other requirements of a brief as set forth in § 41.37(c). A reply brief may not be accompanied by any amendment, affidavit (§ 1.130, 1.131 or 1.132 of this title) or other evidence. If a reply brief filed pursuant to this section is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under paragraph (b)(1) of this section.

§ 41.37 Appeal brief (c)(ix)

Evidence appendix . An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

37 CFR 41.43. Examiner's response to reply brief.

(a) (1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner 's answer responding to any new issue raised in the reply brief.

(2) A supplemental examiner 's answer responding to a reply brief may not include a new ground of rejection.

(b) If a supplemental examiner 's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner 's answer within two months from the date of the supplemental examiner 's answer.

I. REPLY BRIEF

Under 37 CFR 41.41(a)(1) and 41.43(b), appellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer or supplemental examiner's answer. ...

Any reply brief must also be in compliance with requirements set forth in 37 CFR 41.41. New or non-admitted affidavits, and/or other evidence are not permitted in a reply brief. Any new amendment must be submitted in papers separate from the reply brief, and the entry of such papers is subject to the provisions of 37 CFR 41.33. A paper that contains an amendment is not a reply brief within the meaning of 37 CFR 41.41. Such a paper will not be entitled to entry simply because it is characterized as a reply brief.

II. EXAMINER'S RESPONSE TO A REPLY BRIEF

If a reply brief is not in compliance with 37 CFR 41.41, the examiner must notify appellant that the reply brief has not been considered and the reason for non-compliance.
The examiner may use form paragraph 12.182 on Form PTOL-90 to notify the appellant.

§ 1.116 Amendments and affidavits or other evidence after final action and prior to appeal.

(e) An affidavit or other evidence submitted after a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913 but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title), may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.

§ 41.154 Form of evidence states:

(a) Evidence consists of affidavits, transcripts of depositions, documents, and things. All evidence must be submitted in the form of an exhibit.

MPEP §1207.03 New Ground of Rejection in Examiner's Answer

IV. Request for designation as new grounds of rejection:

Appellant cannot request to reopen prosecution pursuant to 37 CFR 41.39(b) if the examiner's answer does not have a new ground of rejection under 37 CFR 41.39. If appellant believes that an examiner's answer contains a new ground of rejection not identified as such, appellant may file a petition under 37 CFR 1.181(a) within two months from the mailing of the examiner's answer requesting that a ground of rejection set forth in the answer be designated as a new ground of rejection. Any such petition must set forth a detailed explanation as to why the ground of rejection set forth in the answer constitutes a new ground of rejection. Any allegation that an examiner's answer contains a new ground of rejection not identified as such is waived if not timely raised (i.e., by filing the petition within two months of the answer) by way of a petition under 37 CFR 1.181(a). The filing of a petition under 37 CFR 1.181 does not toll any time period running.

III. Situations that are not considered as new grounds of rejection:

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. At 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

OPINION

Regarding Petitioner's statement that: (1) dictionary definitions are not considered to be "evidence" in patent matters but are rather considered as authority similar to legal citations.

It is noted that the *Federal Rules of Evidence (FRE)* govern the admission of facts by which parties in the federal courts of the United States may prove their cases. The term "evidence," under the Federal Rules of Evidence, is information having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the information. Under the Federal Rules of Evidence (FRE) Rule 401: "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Accordingly, dictionary definitions would be considered evidence. Namely, Extrinsic Evidence consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises. Brown v. Piper, 91 U.S. 37, 41 (1875). All evidence must be submitted in the form of an exhibit (41.154 supra). New or non-admitted affidavits, and/or other evidence are not

permitted in a reply brief. Therefore, the entry of a reply brief with any new or non-admitted dictionary definitions is not permitted.

Regarding Petitioner's statement that: (2) the Reply Brief was in response to new arguments first raised in the Examiner's Answer. According to the record, Appeal Brief filed 12/17/09, Petitioner states:

> The Examiner's analysis neglects to consider the differences between a "prompt," as claimed, and a "notification," as taught by Kahan. A "prompt" refers to message/symbol on a display screen of a computer that requests the user to provide some information/data. Also, the nature of a "prompt" involves interactivity between the prompt provider and the user, which responds to the prompt. (p.8); ... Since the subscriber's terminal is not active (and not capable of being interactive), Kahan cannot teach sending a prompt. Instead, Kahan only teaches sending a notification, which does explicitly or inherently teach the claimed "prompt." Thus, Kahan fails to teach the limitations for which the Examiner is relying upon Kahan to teach. (p. 9)

In response to Petitioner's argument, Examiner's rebuts via Examiner's Answer:

> The specification recites "User selects service levels 1 and 3 in response to the choices from web user application 68. In addition, the user can also specify whether to be prompted before receiving the content of these messages or automatically be presented with the messages." The "prompt" as recited here does not say any thing about symbol on a display screen or interactive between the prompt provider and the user as argued by the Appellant. On the contrary "prompt" as recited in the Appellant's specification seems to read notify the user before receiving the content of a message.

Thus, it appears that Petitioner in attempt to distinguish over the prior art, raised the issue of what he/she believes the claimed term "prompt" meant via his/her Appeal Brief.

Regarding Petitioner's requests that: (3) the Examiner's new position with regard to the claim construction as to the term "prompt" be treated as a new ground of rejection under 37 C.F.R. § 41.39(b). It is noted that when the basic thrust of the rejection remains the same, i.e. the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection (1207.03 III supra).

Regarding Petitioner's request that: (4) citation to a dictionary definition be treated as a request that prosecution be reopened under 37 C.F.R. § 41.39(b)(2) (see p. 5). It is noted that Petitioner cannot request to reopen prosecution pursuant to 37 CFR 41.39(b) if the examiner's answer does not have a new ground of rejection under 37 CFR 41.39. If appellant believes that an examiner's answer contains a new ground of rejection not identified as such, appellant may file a petition under 37 CFR 1.181(a) within two months from the mailing of the examiner's answer requesting that a ground of rejection set forth in the answer be designated as a new ground of rejection.

(1207.03 IV supra). It is further noted that § 41.39(b)(2) (supra) is an option contingent an examiner's answer contains a rejection designated as a new ground of rejection, which is not applicable in this case, as discussed above.

For the above-mentioned reasons, the petition is **Dismissed**.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4056. If attempts to reach the undersigned by telephone are unsuccessful, alternatively, Beatriz Prieto, Quality Assurance Specialist, can be reached at (571) 272-3902.

/bp/

Jack B. Harvey,
TC 2400 Director
Network, Multiplexing, Cable and Security

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Aloys Wobben	: DECISION ON REQUEST FOR
Patent Number	: 7614200	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1195** 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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Ballard Spahr LLP
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999 PEACHTREE STREET
ATLANTA, GA 30309-3915

Mail Date: 04/21/2010

Applicant	: Ronald Joseph Karpovich	: DECISION ON REQUEST FOR
Patent Number	: 7587362	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,104	: OF WYETH
Filed	: 10/01/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

13 SEP 2004

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Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

In re Application of	:	
Ollington	:	
Application No. 10/492,106	:	DECISION ON
PCT No.: PCT/AU02/01087	:	
Int. Filing Date: 02 August 2002	:	PETITION UNDER
Priority Date: 02 August 2001	:	
Atty. Docket No.: PIP-PT036	:	37 CFR 1.137(b)
For: Casino Card Game	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 08 April 2004.

BACKGROUND

This international application was filed on 02 August 2002, claimed an earliest priority date of 02 August 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 13 February 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 02 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 (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 is accompanied by a "Statement In Support Of Petition For Revival...," which states in part that "it is hereby asserted that the entire delay in filing the enclosed U.S. National Phase Application under 35 U.S.C. § 371(c) from the due date for filing the application until the filing of a grantable Petition under 37 C.F.R. §

1.137(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), 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**.

The $65.00 surcharge under 37 CFR 1.492(e) is being charged to counsel's Deposit Account No. 22-0493, as authorized by the Transmittal Letter filed on 08 April 2004.

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 **08 April 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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01 MAR 2005

#7

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Barnes & Thornburg
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In re Application of	:	
GERKING, Lüder	:	
Application No.: 10/492,110	:	DECISION ON
PCT No.: PCT/EP02/11368	:	
Int. Filing Date: 10 October 2002	:	PETITION
Priority Date: 11 October 2001	:	
Attorney Docket No.: 34774-74962	:	UNDER 37 CFR 1.181
For: METHOD AND DEVICE FOR PULVERISING LIQUIDS USING GAS FLOWS	:	

This is a corrected decision in response to applicant's "Letter," filed by facsimile on 11 February 2005.

BACKGROUND

On 10 October 2002, applicant filed international application PCT/EP02/11368, claiming a priority date of 11 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 April 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 11 April 2004.

On 08 April 2004, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 04 October 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 14 October 2004, applicant submitted an unsigned submission accompanied by a declaration and a postcard receipt.

On 20 December 2004, applicant submitted the cover sheet from the 14 October 2004 submission with a signature.

On 11 February 2005, applicant filed the instant petition, accompanied by a declaration and postcard receipt.

On 15 February 2005, the Office mailed Decision On Petition Under 37 CFR 1.181 indicating that the application had a date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) of 02 July 2004.

DISCUSSION

A review of the postcard receipt indicates that "02 July 2004" was the law firm's receipt date. The postcard receipt was stamped "23 Jun 2004" by the Office. The declaration has a receipt date of 23 June 2004.

The declaration submitted on 23 June 2004 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

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 23 June 2004.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

15 FEB 2005

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In re Application of GERKING, Lüder Application No.: 10/492,110 PCT No.: PCT/EP02/11368 Int. Filing Date: 10 October 2002 Priority Date: 11 October 2001 Attorney Docket No.: 34774-74962 For: METHOD AND DEVICE FOR PULVERISING LIQUIDS USING GAS FLOWS	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Letter," filed by facsimile on 11 February 2005. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 10 October 2002, applicant filed international application PCT/EP02/11368, claiming a priority date of 11 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 April 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 11 April 2004.

On 08 April 2004, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 04 October 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 14 October 2004, applicant submitted an unsigned submission accompanied by a declaration and a postcard receipt.

On 20 December 2004, applicant submitted the cover sheet from the 14 October 2004 submission with a signature.

On 11 February 2005, applicant filed the instant petition, accompanied by a declaration and postcard receipt.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by serial number and docket number, stamped 02 July 2004 and listing a declaration. This is adequate evidence that the listed item was received by the Office on 02 July 2004. Applicant indicates that the enclosed declaration is a true copy of the 02 July 2004 submission and the statement is signed by someone registered to practice before the Office. The declaration is accepted as having been received on 02 July 2004.

The declaration submitted on 02 July 2004 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notice of Missing Requirements (Form PCT/DO/EO/905) mailed 04 October 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 02 July 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
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OFFICE OF PETITIONS

In re Application of :

KNAEBCHEN, Andreas :
Application No. 10/492,149 :
Filed: April 09, 2004 :
Attorney Docket No. **449122071400** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

The request is **APPROVED.**

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

The request was signed by Deborah 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: **ANDREAS KNABCHEN**
PARTENKIRCHNER STR. 20
MUNCHEN, GERMANY 81377

cc: **KEVIN R. SPIVAK**
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70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Hillel Weinstein et al.	:	
Application No. 10/492,173	:	DECISION ON PETITION
Filed: August 10, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. P-7651-US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 28, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes of one of the applicant's birth certificate proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2622 for action on the merits commensurate with this decision.

Dean Path for

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 23, 2009

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/492177-.

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: _____

/Benjamin C. Lee/ — SPE

2612 — Art Unit

Day : Monday
Date: 8/31/2009

PALM INTRANET

Time: 09:38:53

PTA Calculations for Application: 10/492178			
Application Filing Date:	04/07/2004	PTO Delay (PTO):	188
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	26
Post-Issue Petitions:	0	Total PTA (days):	157
PTO Delay Adjustment:	-5		

File Contents History

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63	08/29/2008	FINAL REJECTION			
60	05/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	05/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	57
58	06/19/2008	DATE FORWARDED TO EXAMINER			
57	05/20/2008	RESPONSE AFTER NON-FINAL ACTION		26	54
56	05/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
55	05/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

54	01/24/2008	MAIL NON-FINAL REJECTION			
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17	12/12/2005	MAIL RESTRICTION REQUIREMENT	188		-1
16	12/08/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
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7	08/28/2004	CLEARED BY OIPE CSR			
6	04/11/2004	371 COMPLETION DATE			
5	08/12/2004	APPLICATION DISPATCHED FROM OIPE			
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3	04/21/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	04/07/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	04/07/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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AUG 31 2009

OFFICE OF PETITIONS

In re Application of :
EMINI, et al. :
Application No. 10/492,178 : ON APPLICATION FOR
Filed: April 7, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. ITR0015YP :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING RECONSIDERATION" filed February 27, 2009. Applicants request that the determination of patent term adjustment be corrected from one hundred sixty-two (162) days to five hundred seventy-eight (578) days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **one hundred fifty-seven (157) days**. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three 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 three years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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[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.

Further review of the application file history reveals that the Office noted a period of delay of 188 days, pursuant to 37 CFR 1.702(a)(1), for the Office failing to mail at least one notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application.[2] A review of the record indicates that the Office did not use the correct 35 U.S.C. 371(b) national stage completion, or fulfillment date, of Monday, April 12, 2005, in calculating the period of adjustment under 37 CFR 1.703(a)(1). As stated in 37 CFR 1.703(a)(1), the period of adjustment under § 1.702(a) is the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements under 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment under 37 CFR 1.702(a) should be 183 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, June 13, 2005, and ending on the date of mailing of the restriction requirement, December 12, 2005. Accordingly, the period of adjustment of 188 days is being removed and a period of adjustment of 183 days is being entered.

---

[2] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is **157 days** (183 days of Office delay - 26 days of applicant delay).

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

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

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Updated PALM Screen

Day : Friday
Date: 8/28/2009

PALM INTRANET

Time: 14:48:04

PTA Calculations for Application: 10/492178			
Application Filing Date:	04/07/2004	PTO Delay (PTO):	188
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	26
Post-Issue Petitions:	0	Total PTA (days):	157
PTO Delay Adjustment:	-5		

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2	04/07/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	04/07/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Mail Date: 04/21/2010

Applicant	: Emilio A Emini	: DECISION ON REQUEST FOR
Patent Number	: 7598362	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **866** 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 20044-4300

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OFFICE OF PETITIONS

In re Application of	:	
DäUber et al.	:	
Application No. 10/492186	:	
Filing or 371(c) Date: 10/12/2004	:	
Attorney Docket Number:	:	
095309.53952US	:	ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment, filed November 30, 2006. The Request is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed April 17, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned July 17, 2006. A Notice of Abandonment was mailed October 31, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action was filed, including a one (1) month extension of time request and fee, on August 17, 2006, and received by this Office as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant files a copy of the Reply and a copy of his return-receipt postcard acknowledging receipt by this Office of the Reply on August 17, 2006.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt by this Office an Amendment, a one 91) month extension of time, 1 new sheet of drawings and a Substitute Specification Marked-Up Version by this office on August 17, 2006. A review of office finance records confirms that this Office charged a one (1) month extension of time fee to Applicant on August 17, 2006.

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 3612 for processing of the Reply, and for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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In re Application	:
Däuber, et al.	:
Application No. 10/492,186	: DECISION ON APPLICATION
Filed: April 9, 2004	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. 095309.53952US	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)", filed December 19, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded seventy-eight (78) days to two hundred eighty-six (286) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred sixty-one (261) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 29, 2006, 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 seventy-eight (78) days. On December 19, 2007, Applicants timely[1] submitted the instant application for patent term adjustment.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

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[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

The Office initially determined a patent term adjustment of seventy-eight (78) days based on an adjustment of one hundred twenty-six (126) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and eighty-eight (88) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by applicants' delay of one hundred thirty-six (136) days, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustments of 88 and 136 days are at issue.

Applicants were wrongfully assessed applicant delay of one hundred thirty-six (136) days for responding to a April 17, 2006 Office action on November 30, 2006. Applicants demonstrated in a petition to withdraw the holding of abandonment, filed November 30, 2006 and granted on March 26, 2007, that their reply was actually filed on August 17, 2006. Accordingly, thirty-one (31) days of applicant delay should have been assessed with respect to this filing.

Furthermore, as the Office did not mail a reply until an Office action on June 26, 2007, one hundred ninety-one (191) days of PTO delay should have been assessed, not eighty-eight (88) days.

In addition, a review of the file reveals that applicants should have been assessed additional delay pursuant to 37 C.F.R. § 1.704(c)(8) for filing a supplemental reply after their August 17, 2006 reply. On September 11, 2006, applicants filed an IDS. The IDS did not contain a §1.704(d) statement. Accordingly, twenty-five (25) days of applicant delay should have been assessed with respect to this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred sixty-one (261) days** (317 (191+126) days of PTO delay, reduced by 56 (31+25) days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PALM INTRANET

Day : Tuesday
Date: 4/8/2008
Time: 17:45:44

PTA Calculations for Application: 10/492186			
Application Filing Date:	10/12/2004	PTO Delay (PTO):	214
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	136
Post-Issue Petitions:	0	Total PTA (days):	261
PTO Delay Adjustment:	183		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
59	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
58	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	136		
57	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		88	
56	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	191		
49	10/29/2007	MAIL NOTICE OF ALLOWANCE			
48	10/27/2007	ISSUE REVISION COMPLETED			
47	10/27/2007	DOCUMENT VERIFICATION			
46	10/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	10/15/2007	NOTICE OF ALLOWABILITY			
40	08/02/2007	DATE FORWARDED TO EXAMINER			
39	08/01/2007	RESPONSE AFTER NON-FINAL ACTION			
36	06/26/2007	MAIL NON-FINAL REJECTION	88		30
35	06/11/2007	NON-FINAL REJECTION			
34	06/11/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
33	11/30/2006	NEW OR ADDITIONAL DRAWING FILED			
32	11/30/2006	SUBSTITUTE SPECIFICATION FILED			
31	04/02/2007	DATE FORWARDED TO EXAMINER			
30	11/30/2006	RESPONSE AFTER NON-FINAL ACTION		136	19
29	11/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	04/02/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
27	01/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/26/2007	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			

25.7	01/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	01/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/30/2006	PETITION ENTERED			
23	10/31/2006	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
22	10/26/2006	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
21	09/11/2006	REFERENCE CAPTURE ON IDS			
20.7	09/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/17/2006	MAIL NON-FINAL REJECTION	126		-1
18	04/10/2006	NON-FINAL REJECTION			
17	10/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	03/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	12/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	03/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	10/12/2004	REFERENCE CAPTURE ON IDS			
10.7	10/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/04/2004	CLEARED BY OIPE CSR			
7	10/12/2004	371 COMPLETION DATE			
6	10/22/2004	APPLICATION DISPATCHED FROM OIPE			
5	10/22/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	10/12/2004	ADDITIONAL APPLICATION FILING FEES			
3	10/12/2004	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Bernard Le Bonniec	: DECISION ON REQUEST FOR
Patent Number	: 7589178	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,191	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1164** 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.

8

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/492,204	10/06/2004	Harald Hoeppner	028605-00004	6175

4372 7590 01/07/2008
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER
CHAN, SING P

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
01/07/2008	ELECTRONIC

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

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

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

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10492204	10/6/04	HOEPPNER ET AL.	028605-00004

EXAMINER
Philip C. Tucker

ART UNIT	PAPER
1791	20080102a

DATE MAILED:

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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

Commissioner for Patents

Petition Decision

Philip C Tucker
SPE
Art Unit: 1791

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

DATE:

In re Application of	:	
Harald Hoeppner et al.	:	DECISION
Serial No. 10/492,204	:	ON
Filed: October 6, 2004	:	PETITION
For: MULTILAYER SECURITY DOCUMENT	:	
AND METHOD FOR ITS PRODUCTION	:	

This is in response to the petition filed December 3, 2007, requesting that the finality of the Office Action of October 17, 2007 be withdrawn under 37 C.F.R. 1.113 and 1.181. It was alleged that the finality was improper because no amendment by the Applicants necessitated a further search of the prior art, and the newly cited references applied by the examiner could have been identified in the original search and applied in the first Office Action.

In an amendment filed December 19, 2007, applicant filed an amendment cancelling all of the rejected claims, the remainder of the claims having being previously indicated as allowable.

Accordingly the petition is **Dismissed.**

Philip Tucker, Supervisory Patent Examiner
Technology Center 1700
Chemical and Materials Engineering

Arent Fox LLP
1050 Connecticut Avenue, N.W., Suite 400
Washington D.C. 20036

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OCT 24 2006

TECHNOLOGY CENTER 3600

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

In re application of Mark Greenstein et al. Application No. 10/492,205 Filed: October 04, 2005 For: SYSTEM AND METHOD FOR ASSISTING IN THE SELECTION OF PRODUCTS AND OR SERVICES	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on August 24, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B), (D) and (E) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required. Regarding item (D), after completing a review of the application file no copies of the above-noted references have been located. Regarding item (E), the petition does not include a detailed discussion of how the claimed subject matter is patentable over each of the references deemed most closely related to the subject matter encompassed by the claims.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

KJD/slb: 10/18/06

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APR 04 2007
TECHNOLOGY CENTER 3600

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

In re application of	:	**DECISION ON PETITION**
Mark Greenstein et al.	:	**TO MAKE SPECIAL**
Application No. 10/492,205	:	**(ACCELERATED**
Filed: October 04, 2005	:	**EXAMINATION)**
For: SYSTEMS AND MEHOD FOR ASSITING IN THE SELECTION OF PRODUCTS AND OR SERVICES		

This is in response to the petition filed on February 26, 2007 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/slb: 03/22/07

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OCT 02 2007

OFFICE OF PETITIONS

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION, P. O. BOX 1967
MIDLAND, MI 48641-1967

In re Application of David J. Brennan, et al. Application No. 10/492,224 Filed: April 8, 2004 Attorney Docket No. 61536A	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 6, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 26, 2007. A Notice of Abandonment was mailed on May 25, 2007. On June 6, 2007, the present petition was filed.

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

The application is being referred to Publishing Division to be processed into a patent.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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KHORSANDI PATENT LAW GROUP ALC
140 S LAKE SUITE 312
PASADENA CA 91101-4710

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JUL 3 1 2008

In re Application	:	
Charles D. Cole, III	:	
Application No. 10/492,227	:	DECISION ON APPLICATION
Filed: April 8, 2004	:	FOR PATENT TERM ADJUSTMENT
Docket No. PSAE0010US/MRK	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. 1.705(b)" filed April 8, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.

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 **two hundred forty-seven (247) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 11, 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 was two hundred ninety-four (294) days.

The Office initially determined a patent term adjustment of two hundred ninety-four (294) days based on an adjustment for PTO delay of three hundred twenty-eight (328) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by thirty-two (32) and two (2) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). The adjustments have been reviewed and found to be correct.

A review of the record reveals that the Office mailed a final action on October 17, 2006. Applicant did not file a proper reply until a Request for Continued Examination on March 5, 2007. Accordingly, pursuant to 37 C.F.R. 1.704(b), applicant delay of forty-seven (47) days should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred forty-seven (247) days** (328 days of PTO delay, reduced by 81 (32+2+47) days of applicant delay).

No fee has been charged. The Office thanks Applicant for his good faith and candor in bringing this matter to the Office's attention.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Wednesday

PALM INTRANET

Date: 7/30/2008
Time: 18:28:17

PTA Calculations for Application: 10/492227			
Application Filing Date:	04/08/2004	PTO Delay (PTO):	328
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	34
Post-Issue Petitions:	0	Total PTA (days):	247
PTO Delay Adjustment:	-47		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	07/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		47	
43	01/11/2008	MAIL NOTICE OF ALLOWANCE			
42	01/09/2008	ISSUE REVISION COMPLETED			
41	01/04/2008	DOCUMENT VERIFICATION			
40	01/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	01/04/2008	NOTICE OF ALLOWABILITY			
36	01/03/2008	DATE FORWARDED TO EXAMINER			
35	12/19/2007	AMENDMENT AFTER FINAL REJECTION		2	34
34	09/17/2007	MAIL FINAL REJECTION (PTOL - 326)			
33	09/14/2007	FINAL REJECTION			
32	08/23/2007	DATE FORWARDED TO EXAMINER			
31	08/17/2007	RESPONSE AFTER NON-FINAL ACTION		32	29
30	08/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	04/16/2007	MAIL NON-FINAL REJECTION			
28	04/16/2007	NON-FINAL REJECTION			
27	03/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	03/13/2007	DATE FORWARDED TO EXAMINER			
25	03/05/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
24	03/13/2007	DATE FORWARDED TO EXAMINER			
23	03/05/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
22	03/13/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
21	03/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

20	03/05/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
19	10/17/2006	MAIL FINAL REJECTION (PTOL - 326)			
18	10/16/2006	FINAL REJECTION			
17	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	08/11/2006	DATE FORWARDED TO EXAMINER			
15	07/31/2006	RESPONSE AFTER NON-FINAL ACTION			
14	05/02/2006	MAIL NON-FINAL REJECTION	328		-1
13	05/01/2006	NON-FINAL REJECTION			
12	04/08/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
11	04/13/2006	CORRESPONDENCE ADDRESS CHANGE			
10	02/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	02/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	04/08/2004	REFERENCE CAPTURE ON IDS			
7.7	04/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	04/08/2004	PRELIMINARY AMENDMENT			
5	07/11/2004	CLEARED BY OIPE CSR			
4	04/08/2004	371 COMPLETION DATE			
3	06/29/2004	APPLICATION DISPATCHED FROM OIPE			
2	06/29/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	04/08/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of
Sabine Diller et al.
Application No. 10/492,230
Filed: September 16, 2004
Attorney Docket No. DEBE:035US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed September 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed November 26, 2008. A response was filed May 19, 2009 with a three month extension of time, but by Advisory Action of June 26, 2009, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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

This matter is being referred to Technology Center 1645 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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B. TODD PATTERSON
MOSER PATTERSON & SHERIDAN
SUITE 1500
3040 POST OAK BOULEVARD
HOUSTON, TX 77056

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MAY 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Asher Pearl	:	
Application No. 10/492,257	:	ON PETITION
Filed: August 30, 2004	:	
Attorney Docket No.: ZIMR/0011	:	

This is a decision on the petition, filed May 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 February 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2881 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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P.O. Box 1450
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Date : May 9, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Asher Pearl
Application No. : 10/492,257
Filed : August 30, 2004

The above-identified application has been assigned Patent No. 7,049,604 and an issue date of May 23, 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 23, 2006:

> "All reference to Patent No. 7,049,604 to ASHER PEARL of ISRAEL for METHOD AND DEVICE FOR ALIGNING A CHARGED PARTICLE BEAM COLUMN appearing in the Official Gazette of May 23, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44I (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9I0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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B TODD PATTERSON
MOSER PATTERSON & SHERIDAN
SUITE 1500
3040 POST OAK BOULEVARD
HOUSTON TX 77056

In re Application of	:	
Asher Pearl	:	
Application No. 10/492,257	:	ON PETITION
Filed: August 30, 2004	:	
Attorney Docket No. ZIMR/0011	:	

This is a decision on the petition, filed March 16, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2881 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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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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APR 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Kenro Ohsawa et al.	:	
Application No. 10/492,259	:	DECISION GRANTING PETITION
Filed: April 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04029/LH	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 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 March 11, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

T. Williams

Terri Williams
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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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Kenro Ohsawa et al	:	
Application No. 10/492,260	:	DECISION GRANTING PETITION
Filed: April 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03693/LH	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 3, 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 March 11, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2622 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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12/16/08

Patent No. :7450158
Ser. No. :10/492260
Inventor(s) :Kenro Ohsawa et al.
Issued : 11/11/08
Title : SPECTRUM AND COLOR REPRODUCTION SYSTEM TO CONVERT A COLOR SIGNAL FROM A COLOR-IMAGE INPUT INTO A COLOR SIGNAL FOR A COLOR-IMAGE OUTPUTHANDLNG INFORMATION IN A NOISY ENVIRONMENT
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

FRISHAUF HOLTZ GOODMAN & CHICK P.C.
220 5TH Avenue, 16th floor
New York, New York 10001

HR

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JUL 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,450,158	:	
Application No. 10/492,260	:	
Filed: April 12, 2004	:	ON PETITION
Issued: November 11, 2008	:	
Attorney Docket No. 03693/LH	:	

This is a decision on the petition filed June 16, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to add the names of two assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

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 and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***.

Current Patent and Trademark Office assignment records disclose that an assignment recorded on April 12, 2004, prior to the date of issuance of this patent, records "MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD" as the most recent assignee not "MATSUUSHITA ELECTRIC INDUSTRIAL CO., LTD" as petitioner has requested.

Petitioner is requesting that the Certificate of Correction reflect an assignment other than what was submitted on April 12, 2004.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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JEFRY S. MANN, PH.D.
MORGAN, LEWIS & BOCKIUS LLP
TWO PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,416,858 :
Shawn Defrees et al :
Application No. 10/492,261 : NOTICE AND DECISION ON
Filed: April 9, 2004 : REQUEST FOR REFUND
Attorney Docket No. 040853-01-5050 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. This is also a decision on the Request for refund submitted on August 6, 2009 and supplemented on September 15, 2009.

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

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

As to the Request for Refund:

The request for refund submitted on August 6, 2009, is **dismissed** in view of the communication submitted on September 15, 2009, requesting that the request for refund be withdrawn.

The file does not indicate a change of address has been submitted, although the address given on the request 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 request; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET, SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

13 MAY 2005

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Alexandria, VA 22313-1450
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KLARQUIST SPARKMAN
One World Trade Center
Suite 1600
121 S.W. Salmon Street
Portland, OR 97204-2988

In re Application of
CONN, P. MIchael
Application No.: 10/492,295
PCT No.: PCT/US02/32399
Int. Filing Date: 08 October 2002
Priority Date: 09 October 2001
Attorney Docket No.: 899-68338
For: RESCUE OF GONADOTROPIN RELEASING HORMONE RECEPTOR MUTANTS

DECISION

This decision is in response to applicants' "Request to Correct Priority Information" filed via facsimile on 06 January 2005 and again on 04 April 2005 which is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

A review of the filing receipt mailed 09 June 2004 indicates that not all the priority dates are listed. The filing receipt should indicate that the international application PCT/US02/32399 also claims priority to U.S. provisional application No. 60/376,685 filed 29 April 2002.

Accordingly, the filing receipt mailed 09 June 2004 is hereby **VACATED**.

A new filing receipt will be mailed with this decision.

The application will then be forwarded to Technology Center 1600 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

16 SEP 2004

#6

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Krishna Kalidindi
Potomac Patent Group, PLLC
PO Box 855
McLean, VA 22101-0855

In re Application of APPELSTAL Application No.: 10/492,297 PCT No.: PCT/SE02/01874 Int. Filing Date: 14 October 2002 Priority Date: 12 October 2001 Atty. Docket No.: 0904-002 For: A METHOD AND SYSTEM FOR DELIVERING A MESSAGE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 September 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 the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventor and payment of the appropriate surcharge is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

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

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Himanshu Brahmbhatt, et al.	:	
Application No. 10/492,301	:	DECISION ON PETITION
Filed: April 12, 2004	:	TO WITHDRAW
Attorney Docket No. 60348-0107	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 28, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on December 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JORGE GOLDSTEIN
STERNE, KESSLER, GOLDSTEIN & FOX, PLLC
1100 NEW YORK, NW
WASHINGTON, DC 20005

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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www.uspto.gov

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

Mail Date: 04/20/2010

Applicant	: Sylke Klein	: DECISION ON REQUEST FOR
Patent Number	: 7629257	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,308	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **558** 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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JJGJr: 07-06

Paper No: __

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WILLIAM M HANLON JR
YOUNG & BASILE
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084

In re Application of	:	
Mangold, et al.	:	
Application No. 10/492,321	:	ON PETITION
Filed: 12 April, 2004	:	
Patent No.: 7,007,801	:	
Issue Date: 7 March, 2006	:	
Attorney Docket No.: DFS-144-A	:	

This is a decision on the request filed on 31 March, 2005, under 37 C.F.R. §1.182 and also properly considered under under 37 C.F.R. §1.322 to issue a corrected patent, consistent with the provisions of 37 C.F.R. §1.322(b), to correct the failure of the Office to take into account the Preliminary Amendment filed with the application on 12 April, 2004.

The petition under 37 C.F.R. §1.182 and §1.322(b) is **GRANTED**.

BACKGROUND

It appears that in publishing the instant patent, the Office failed to include the extensive preliminary amendment filed with the application on 12 April, 2004, and Petitioner seeks correction in the form of a fully reprinted patent–consistent with the provisions of 37 C.F.R. §1.322(b).

The Examiner has indicated (upon inquiry from the Office of Petitions) his assent (a copy of which is made of record) to the request.

Accordingly, the petition as considered under 37 C.F.R. §1.182 and §1.322(b)[1] to correct the patent be reprinting the patent to reflect the allowance pursuant to the filing of the preliminary amendment on 12 April, 2004, is **granted**.

The instant file is being released to the Publications Branch to issue a corrected printed patent, consistent with this decision, in due course.

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

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

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[1] The regulations at 37 C.F.R. §1.322 provide:

§1.322 Certificate of correction of Office mistake.

(a)(1)The Commissioner may issue a certificate of correction pursuant to 35 U.S.C.254 to correct a mistake in a patent,incurred through the fault of the Office,which mistake is clearly disclosed in the records of the Office:

(i) At the request of the patentee or the patentee ' s assignee;

(ii) Acting *sua sponte* for mistakes that the Office discovers;or

(iii)Acting on information about a mistake supplied by a third party.

(2)(i) There is no obligation on the Office to act on or respond to a submission of information orrequest to issue a certificate of correction by a third party under paragraph (a)(1)(iii)of this section.

(ii) Papers submitted by a third party under this section will not be made of record in the file that they relate to nor be retained by the Office.

(3) If the request relates to a patent involved in an interference,the request must comply with the requirements of this section and be accompanied by a motion under § 1.635.

(4) The Office will not issue a certificate of correction under this section without first notifying the patentee (including any assignee of record)at the correspondence address of record as specified in § 1.33(a)and affording the patentee or an assignee an opportunity to be heard.

(b)If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form,the Commissioner may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction,without expense to the patentee.

[24 Fed. Reg. 10332,Dec.22,1959;34 Fed. Reg. 5550,Mar.22, 1969;para.(a),49 Fed. Reg. 48416,Dec.12,1984,effective Feb. 11, 1985;para.(a)revised,65 Fed. Reg. 54604,Sept.8,2000, effective Nov.7,2000]

20 JUL 2005

#13

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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re Application of	:	
Fages et al.	:	
Application No.: 10/492,346	:	
PCT No.: PCT/FR02/03474	:	
Int. Filing Date: 11 October 2002	:	DECISION
Priority Date: 12 October 2001	:	
Attorney Docket No.: 15675P519	:	
For: Method For Preparing A Compound	:	
Of Active Substances With A Porous	:	
Support Using Supercritical Fluid	:	

This is in response to the "Response To Notification Of Missing Requirements Under 37 U.S.C. 371 (sic)" filed on 19 January 2005, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

This international application was filed on 11 October 2002, claimed an earlier priority date of 12 October 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 30 May 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 April 2004. On 08 April 2004, applicants filed, *inter alia*, the basic national fee.

On 16 August 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), a surcharge under 37 CFR 1.492(e), a processing fee under 37 CFR 1.492(f), an initial or substitute paper copy or compact disc of the "Sequence Listing," as well as an amendment directing an entry into the specification, and an English translation of the international application because "The text in the drawings has not been properly translated" and because of the presence of "Foreign text in Formal Drawings that were submitted."

DISCUSSION

Applicants argue that "there is no improper translation or text in the drawings and there is no foreign text in the formal drawings as alleged in the Notification. In addition, there is no sequence disclosure contained in the application which requires a sequence listing under 37 CFR 1.821(c) and PCT Rule 5.2(a)."

Review of the record reveals that the formal drawings (filed on 08 April 2004) contain French words (e.g., "origine" and "Chien"). However, the informal drawings filed on that same day do not contain foreign words, and are acceptable for purposes of compliance with 35 U.S.C. 371(c)(2).

The requirements set by the 16 August 2004 Notification of Missing Requirements for a surcharge under 37 CFR 1.492(f), an initial or substitute paper copy or compact disc of the "Sequence Listing," and an initial or substitute paper copy or compact disc of the "Sequence Listing," as well as an amendment directing an entry into the specification were inappropriate and are hereby **WITHDRAWN**.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**, to the extent noted above.

The $130.00 surcharge under 37 CFR 1.492(e) is being credited to counsel's Deposit Account No. 02-2666.

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 January 2005**.

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

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SEP 23 2008

OFFICE OF PETITIONS

In re Patent No. 7,268,150	:	
Issue Date: September 11, 2007	:	
Application No. 10/492,347	:	ON PETITION
Filed: April 13, 2004	:	
Attorney Docket No. 07385.0028	:	

This is a decision on the petition filed March 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) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 21, 2007

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction on Patent No.: 7081370 B2

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — **Art Unit** 2891

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,081,370

DATED : July 25, 2006

INVENTOR(S) : SILICON SUBSTATE APPARATUS AND METHOD OF MANUFACTURING THE SILICON SUBSTRATE APPARATUS

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

(56) References Cited insert --2003/0210868 A1* 11/2003 Abe et al. 385/52--

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

PATENT NO. 7,081,370
No. of additional copies
@ $.30 per page
⇨ _____

#8

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2 0 DEC 2007

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BUCHANAN, INGERSOLL & ROONEY PC
Box 1404
Alexandria, Virginia 22313-1404

In re Application of	:
Urban Olsson (deceased)	: DECISION ON
US Application No.: 10/492370	:
PCT Application No.: PCT/SE02/01839	: REQUEST TO WITHDRAW
Int. Filing Date: 9 October 2002	:
Priority Date: 12 October 2001	: NOTICE OF ABANDONMENT
Attorney's File Reference: 101486-1P US	:
For: THREAD JOINT	:

Applicant's "Request to Rescind Notice of Abandonment" filed in the United States Patent and Trademark Office (USPTO) on 07 April 2006 is **GRANTED**.

BACKGROUND

On 12 April 2004, applicant filed U.S. application 10/492370 under 35 U.S.C. 371. This U.S. stage filing claimed priority to international application PCT/SE02/01839 filed 9 October 2002. PCT/SE02/01839 claims a priority date of 12 October 2001 from application number 01034073 filed in Sweden.

On 13 September 2004, the USPTO mailed to the applicant a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office," stating that the current declaration was not in compliance with 37 CFR 1.497(a) & (b). This notification indicated that the declaration submitted in the original filing was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68 and was missing the following;

- inventor citizenship,
- name, address, signature and citizenship and proof of the deceased inventor's (Urban Olsson) legal representative/or heir.

This notification further indicated that the missing parts must be supplied within 2 months of the date of the notification and that a $130 surcharge was due for a declaration submitted later than 30 months from the priority date (37 CFR 1.492(e)).

On 28 March 2006 the USPTO mailed to the applicant a "Notification of Abandonment" stating that the applicant failed to respond to the notification of missing requirements mailed 13 September 2004 within the allotted time period.

DISCUSSION

A request to withdraw a notice of abandonment must include *prima facie* evidence that the applicant responded to the Notification of Missing Requirements in the specified time period, with the missing requirements and with the required missing fee. The request to rescind must include a properly date stamped postcard receipt which itemizes and identifies the items which are being filed.

The applicant's request to withdraw the notice of abandonment filed 07 April 2006 has provided *prima facie* evidence that the applicant properly responded to the Notification of Missing Requirements dated 13 September 2004. The applicant has supplied a copy of the transmittal letter and, the executed declaration. The $130 surcharge fee was paid 10 September 2004. Most importantly the applicant has provided a copy of the USPTO PCT Postcard receipt stamped 10 September 2004 which is evidence that the applicant timely responded to the Notification of Missing Requirements by providing the missing requirements. Therefore, the requirements for withdrawing the notice of abandonment has been satisfied. The attorney who filed the present petition is not of record. Accordingly, the decision is being mailed to the attorney of record. A courtesy copy of the decision is being sent to the applicant who mailed us the petition.

CONCLUSION

The Request to Withdraw the Notice of Abandonment 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.

Mike Zarroli
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

CC
Ronald L. Grudziecki
Drinker Biddle & Reath LLP
1500 K Street NW
Ste. 1100
Washington, DC 20005-1209

20 MAY 2004

#3

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William H. Needle
Needle & Rosenberg
Suite 100
999 Peachtree Street
Atlanta, GA 30309-3915

In re Application of	:	
PEREZA et al.	:	
Application No.: 10/492,372	:	DECISION ON PETITION
PCT No.: PCT/US01/32403	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 October 2001	:	
Priority Date: 16 October 2000	:	
Attorney Docket No.: 06078.0003U2	:	
For: HETEROJUNCTION FAR INFARED PHOTODETECTOR		

The petition to revive under 37 CFR 1.137(b) filed 12 April 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 **07 May 2004**.

Anthony Smith

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

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THE JANSSON FIRM
3616 FAR WEST BLVD
STE 117-314
AUSTIN, TX 78731

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OCT 07 2009

OFFICE OF PETITIONS

In re Application of :
Christian Guion, et al. :
Application No. 10/492,387 : DECISION ON PETITION
Filed: April 9, 2004 :
Attorney Docket No. 71.03961 :

This is a decision on the petition, filed June 19, 2009, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that the application was held abandoned failure to take appropriate action in a timely manner after an Advisory Action Before the Filing of an Appeal Brief (Advisory Action) mailed November25, 2008. A Notice of Abandonment was mailed on May 14, 2009. On June 19, 2009, the present petition was filed, wherein petitioner argues that the Notice of Abandonment issued is error, since the Advisory Action was not appropriate.

A review of the record confirms that petitioner is correct, as an advisory action is not an appropriate action after a response to a non final Office action. Accordingly, the Advisory Action of November 25, 2008 and the Notice of Abandonment mailed Mary 14, 2009 are hereby vacated.

The application is being referred to the Technology Center technical support staff of Art Unit 3696 for withdrawing the holding of abandonment and for appropriate action by the Examiner in the normal course of business on the amendment filed October 6, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

16 MAR 2005

#4

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Legal Department
HUNTSMAN
Post Office Box 15730
Austin TX 78761

In re Application of	:	
FRICK et al.	:	
Application No.: 10/492,389	:	DECISION
PCT No.: PCT/EP02/10738	:	
Int. Filing Date: 25 September 2002	:	
Priority Date: 10 October 2001	:	
Attorney Docket No.: MPD329	:	
For: MANUFACTURE OF ALKYL BENZENE	:	
SULPHONIC ACIDS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 22 February 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 September 2002, applicants filed international application PCT/EP02/10738, which designated the United States and claimed a priority date of 10 October 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 24 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 April 2004 (10 April 2004 being a Saturday).

On 09 April 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 four declarations of the inventors.

On 23 September 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 inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 22 February 2005, applicants filed, *inter alia*, a petition/fee for a three month extension of time, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, an affidavit by Martha Victory, a copy of several

letters to nonsigning inventor Hendrick Frick from Martha Victory, copies of shipping and delivery information from the Federal Express website, an affidavit by Jennifer Atkinson, and a copy of a letter from Jennifer Atkinson to Mr. Frick.

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 under 37 CFR 1.17(g) of $200 has been charged to Deposit Account 08-3442. Thus, item (1) has been satisfied.

Item (3) and (4) have also been satisfied.

Item (2) has also been satisfied. It can reasonably be concluded that nonsigning inventor Hendrick Frick refuses to execute the application. The statement of Martha Victory indicates that she sent a copy of the application papers and a declaration of the inventors to Mr. Frick at his last known address and sent a follow-up letter. Documentary evidence from the Federal Express website has been provided to support these statements. This documentary evidence and the affidavit of Jennifer Atkinson also suggests that Mr. Frick still resides at his last known address but refuses to respond to repeated requests to execute the application.

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 **09 April 2004**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

16 MAR 2005

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Mr. Hendrick P. Frick
6 Robsland Avenue
Ayr
Ayrshire KA7 2RW
Scotland

In re Application of
FRICK et al.
Application No.: 10/492,389
PCT No.: PCT/EP02/10738
Int. Filing Date: 25 September 2002
Priority Date: 10 October 2001
Attorney Docket No.: MPD329
For: MANUFACTURE OF ALKYL BENZENE SULPHONIC ACIDS

Dear Mr. Frick:

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

Legal Department
HUNTSMAN
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Austin TX 78761

07 FEB 2005

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Leydig, Voight & Mayer
700 Thirteenth Street, NW, Suite 300
Washington, DC 20005-3960

In re Application of	:	
Mushinski et al.	:	
Application No. 10/492,396	:	
PCT No.: PCT/US02/33232	:	
Int. Filing Date: 18 October 2002	:	DECISION
Priority Date: 18 October 2001	:	
Atty. Docket No.: 403025/NIH	:	
E-292-01/0	:	
For: Use Of MxGTPases In The	:	
Prognosis And Treatment Of Cancer	:	

This is in response to the "Request For Corrected Official Filing Receipt" filed on 30 December 2004.

BACKGROUND

This international application was filed on 18 October 2002, claimed an earliest priority date of 18 October 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 18 April 2004.

On 12 April 2004, applicants filed, *inter alia*, the basic national fee.

On 23 June 2004, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of receipt of 35 U.S.C. 371(c)(1), (2) and (4) requirements was 09 April 2004.

DISCUSSION

Petitioner requests that the filing receipt be corrected to show a 35 U.S.C. 371(c)(1), (2) and (4) date of 12 April 2004, on the basis that "the application was filed on April 12, 2004." In support thereof, counsel has provided a copy of a return postcard receipt stamped as received by "OIPE" on "APR 12 2004" and itemizing, *inter alia*, a transmittal letter, an application data sheet, $330.00 in fees, a declaration of the inventors, an assignment and fee, an information disclosure statement, Forms PCT/IPEA/408 and PCT/IPEA/409, a sequence listing, diskette and statement, a preliminary amendment, a Form PTO-1449, and a "§371 national phase appln of PCT/US02/33232."

MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to

that practice, the papers and fees enumerated on the return postcard receipt are regarded as originally filed on 12 April 2004.

Further inspection of the return postcard receipt reveals that it itemizes a declaration having "5 Sheets: Mushinski & Trepel, same sheet; Separate sheets for Horisberger, Nguyen and Khanna." The declaration of record also has five sheets, but it appears to have been assembled by putting together individual sheets signed by each of the inventors. As such, it is not clear whether each inventor signed a complete copy of the declaration document. Applicants are required to provide properly executed, complete declaration documents from each of the inventors. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 23 June 2004 is hereby **VACATED**.

DECISION

The request is **DISMISSED**, without prejudice, for the reasons explained above.

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 in compliance with 37 CFR 1.497(a) and (b) 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: (571) 272-3283
Fax: (571) 273-0459

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99 JOHN ST., SUITE 2303
NEW YORK, NY 10038

MAILED
MAY 28 2010
OFFICE OF PETITIONS

In re Application of :
David Gershon :
Application No. 10/492,402 : ON PETITION
Filed: April 13, 2004 :
Attorney Docket No. SUP-P-00061-US

This is a decision on the petition, filed May 27, 2010 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 19, 2010 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 3691 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/
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).

0 1 OCT 2007

#4

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Raymond YC Chan
Suite 128
108 North Ynez Avenue
Monterey Park, CA 91754

In re Application of Zhao, et al. Serial No.: 10/492,405 PCT No.: PCT/CN2003/000621 Int. Filing Date: 04 August 2003 Priority Date: 08 October 2002 Attorney's Docket No.: 27428-12 For: PHARMACEUTICAL COMPOSITIONS CONTAINING POLYDATIN OR ITS SALTS AND THEIR APPLICATION	DECISION ON PETITION UNDER 37 CFR 1.8

This decision is responsive to the "Petition for Filing Information and Request for Status" filed 16 October 2006, and again on 21 December 2006.

BACKGROUND

On 04 August 2003, applicants filed international application PCT/CN2003/000621, which claimed priority of an earlier Chinese application filed 08 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 April 2004. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 08 April 2005.

On 09 July 2004, applicant filed a transmittal letter along with a copy of the international application, an English translation, a declaration an assignment and an power of attorney. These papers were assigned U.S. Serial No. 10/492,405.

On 04 April 2005, applicant filed a copy of the international application, an English translation, and the basic national fee, the search fee and the examination fee.

On 01 March 2005, a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) was mailed to applicant indicating that the application was abandoned for failure to pay the basic national fee.

DISCUSSION

MPEP 503 states, in part:

> 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.

Applicant has provided a copy of a postcard receipt that indicates that an additional copy of the international application and the English language translation, a preliminary amendment, the basic national fee, the search fee, the examination fee, a multiple dependent claim fee and an extra claim fee were filed on 04 April 2005. Applicant has also stated that he has filed copies of the papers filed on 04 April 2005. Therefore, the application should not have been abandoned.

CONCLUSION

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 01 March 2005 is hereby **VACATED**.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of **04 April 2005**.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 9, 2006

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 6,973,918

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 apply requested changes to drawing sheets 2/3 and 3/3 that include changes to figures 2 and 3.

Henry C. Yuen
Supervisory Patent Examiner
Group 3700

SPE

3747
Art Unit

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Paper No.

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209 Madison Street
Suite 500
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Application of De Cherance Application No. 10/492,423 Filed: August 17, 2004 Attorney Docket No. 0540-1021 Title: ARRANGEMENT OF A BUILDING MOBILE BETWEEN TWO POSITIONS, ONE SUPPORTED ON THE GROUND AND THE OTHER FLOATING	:	DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed January 27, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 14, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on February 15, 2009. A notice of abandonment was mailed on June 17, 2009.

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 filed a Request for Continued Examination (RCE) along with the required fee, the petition fee, and the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment that was submitted on January 27, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries 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 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

04 FEB 2005

#a

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Suite 250
100 Commons Way
Holmdel, NJ 07733

In re Application of HOUSTON, John Graeme et al Application No.: 10/492,431 PCT No.: PCT/GB02/04243 Int. Filing Date: 18 September 2002 Priority Date: 18 September 2001 Attorney's Docket No.: 9931-005US For: METHOD OF AND APPARATUS FOR... OF A FIRST FLUID	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 12 April 2004.

BACKGROUND

On 18 September 2002, this international application was filed, claiming an earliest priority date of 18 September 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 18 March 2004. This international application became abandoned with respect to the United States at midnight on 18 March 2004 for failure to pay the required basic national fee.

On 12 April 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

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

grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

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

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P O BOX 10395
CHICAGO IL 60610

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APR 0 9 2008

OFFICE OF PETITIONS

In re Application of
Kelly L. Dempski
Application No. 10/492,437
Filed: April 13, 2004
Attorney Docket No. 10022/473

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed September 4, 2007, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 4, 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 to date is seventy (70) days.

The Office initially determined a patent term adjustment of seventy (70) days based on an adjustment for PTO delay of forty-eight (48) and sixty (60) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by applicant's delays of thirty-four (34), one (1), and three (3) days, pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The adjustment of sixty (60) days is at issue.

First, it is noted that the Office mailed a final Office action on November 30, 2005. Applicant did not file a proper reply until she filed a Notice of Appeal on April 4, 2006. Accordingly, pursuant to 37 C.F.R. 1.704(b), thirty-five (35) days of applicant delay should have been assessed.

Moreover, a review of the file indicates that Applicant filed a request for suspension of action under 37 C.F.R. § 1.103 on June 30, 2006, requesting a suspension of two (2) months. The request was granted in an Office action mailed on July 10, 2006. Accordingly, the date of termination of the suspension was August 30, 2006. Applicant filed an Amendment on that date. 37 C.F.R. § 1.704(c)(1) states that the "period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date a request for suspension of action under § 1.103 was filed [June 30, 2006] and ending on the date of the termination of the suspension [August 30, 2006]. As such, sixty-two (62) days of applicant delay should have been assessed.

In light of the above, the Office should not have been assessed PTO delay of sixty (60) days for mailing a non-final Office action on December 29, 2006. As the Office action was timely mailed within four months of the August 30, 2006 Amendment, zero (0) days of delay should have been assessed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (48 days of PTO delay, reduced by 105 (34+3+35+62+1) days of Applicant delay).

No petition fee was required. The Office thanks Applicant for her good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PALM INTRANET

Day : Tuesday
Date: 4/8/2008
Time: 16:24:04

PTA Calculations for Application: 10/492437			
Application Filing Date:	04/13/2004	PTO Delay (PTO):	108
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	38
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-157		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
71	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
70	04/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		60	
63	06/04/2007	MAIL NOTICE OF ALLOWANCE			
62	05/31/2007	ISSUE REVISION COMPLETED			
61	05/31/2007	DOCUMENT VERIFICATION			
60	05/31/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	05/31/2007	CASE DOCKETED TO EXAMINER IN GAU			
58	05/29/2007	NOTICE OF ALLOWABILITY			
57	04/18/2007	DATE FORWARDED TO EXAMINER			
56	03/30/2007	RESPONSE AFTER NON-FINAL ACTION		1	55
55	12/29/2006	MAIL NON-FINAL REJECTION	60		42
54	12/26/2006	NON-FINAL REJECTION			
53	06/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	10/23/2006	DATE FORWARDED TO EXAMINER			
51	08/30/2006	SUPPLEMENTAL RESPONSE			
50	10/23/2006	DATE FORWARDED TO EXAMINER			
49	10/23/2006	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.			
48	07/10/2006	MAIL LETTER SUSPENDING PROSECUTION AT APPLICANT'S REQUEST			
47	07/08/2006	LETTER OF SUSPENSION - APPLICANT INITIATED			
46	06/30/2006	LETTER REQUESTING SUSPENSION OF PROSECUTION			
45	06/30/2006	REFERENCE CAPTURE ON IDS			

44.7	06/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	42
44	06/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	07/08/2006	DATE FORWARDED TO EXAMINER			
42	06/30/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	07/08/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	06/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	06/30/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	04/04/2006	NOTICE OF APPEAL FILED			
37	04/04/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	03/20/2006	MAIL ADVISORY ACTION (PTOL - 303)			
34	03/13/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	03/15/2006	ADVISORY ACTION (PTOL-303)			
32	03/02/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
31	02/27/2006	MISCELLANEOUS ACTION WITH SSP			
29	02/02/2006	MISCELLANEOUS INCOMING LETTER			
28	02/03/2006	DATE FORWARDED TO EXAMINER			
27	01/30/2006	AMENDMENT AFTER FINAL REJECTION			
26	11/30/2005	MAIL FINAL REJECTION (PTOL - 326)			
25	11/28/2005	FINAL REJECTION			
24	10/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	09/27/2005	DATE FORWARDED TO EXAMINER			
22	09/19/2005	RESPONSE AFTER NON-FINAL ACTION		3	19
21	09/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	09/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	06/16/2005	MAIL NON-FINAL REJECTION	48		16
18	06/13/2005	NON-FINAL REJECTION			
17	03/25/2005	DATE FORWARDED TO EXAMINER			
16	12/29/2004	RESPONSE AFTER NON-FINAL ACTION		34	11
15	12/29/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
14	03/18/2005	CASE DOCKETED TO EXAMINER IN GAU			

13	02/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	12/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
11	08/25/2004	MAIL NON-FINAL REJECTION			
10	08/23/2004	NON-FINAL REJECTION			
9	07/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	07/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
7	04/13/2004	PRELIMINARY AMENDMENT			
5	06/14/2004	CLEARED BY OIPE CSR			
4	04/13/2004	371 COMPLETION DATE			
3	06/02/2004	APPLICATION DISPATCHED FROM OIPE			
2	06/02/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	04/13/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Date Mailed : 06/27/08

Patent No. : 7259170 B2
Patent Issued : 08/21/07
Docket No. : **4-32200A**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 02/27/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

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

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 27, 2008

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/492439 Patent No.: 7259170 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The proposed change changes the scope of the claim due to stereochemistry. There is no indication why this change was not previously presented and this change amounts to more than correction of a typographical error.

SPE

1618
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 27, 2008

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/492439 Patent No.: 7259170 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The proposed change changes the scope of the claim due to stereochemistry. There is no indication why this change was not previously presented and this change amounts to more than correction of a typographical error.

SPE

1618
Art Unit

3 JAN 2005

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Philips Electronics North America Corporation
P O Box 3001
Briarcliff Manor NY 10510

In re Application of	:	DECISION ON
VIZIER, Franck	:	
Application No.: 10/492,449	:	PETITION UNDER
PCT No.: PCT/IB02/04303	:	
Int. Filing Date: 16 October 2002	:	37 CFR § 1.47(b)
Priority Date: 16 October 2001	:	
Attorney Docket No.: FR 010145	:	
For: DATA ENTRY PAD AND AN	:	
ELECTRONIC APPARATUS INCORPORATING	:	
IT	:	

This is a decision on applicant's petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 15 October 2004.

BACKGROUND

On 16 October 2002, applicant filed international application PCT/IB02/04303, which designated the US and claimed a priority date of 16 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 April 2004.

On 13 April 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 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 inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 15 October 2004, applicant submitted the instant petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a copy and an English translation of an agreement signed by non-signing inventor Franck Vizier on 27 March 1995, a copy of a "COMMUNICATION OF AN INVENTION - FORM" signed by Mr. Vizier on 03 October

2000, a declaration of facts by Claudine Laublin, copies of several letters sent to Mr. Vizier, and a declaration of the inventor by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As to item (1), the petition fee has been charged to Deposit Account 14-1270. Thus, item (1) has been met. The surcharge under 37 CFR 1.492(e) has also been charged to Deposit Account 14-1270.

Items (3), (4) and (6) have been met.

Item (2) has not been met. The declaration of facts by Claudine Laublin has been considered. While copies of several letters sent to Mr. Vizier have been presented, it does not appear that any of these letters were sent using any type of return receipt. Accordingly, it is not clear if the inventor is no longer at this address and his whereabouts are unknown, or if he simply received the mailings and did not respond. If the mailings were received and the inventor did not respond, then a refusal to execute the application would likely need to be established. See MPEP § 409.03(d). It is also noted that 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). The copies of the letters to Mr. Vizier suggest that the specification was not sent to him. (While the letters are not translated, each lists four documents: "QUESTIONNARE"; "'DECLARATION AND POWER OF ATTORNEY' US"; "'ASSIGNMENT'"; AND "'APPOINTMENT OF AGENTS'". A specification does not appear to be listed.) If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as certified mail return receipt that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. Also, if it is being alleged that the nonsigning inventor cannot be found or reached, it appears that additional efforts to locate him should be made. For example, it does not appear that an internet search for the inventor was made. Copies of any internet searches should be provided.

Item (5) has not been met. A copy and an English translation of an agreement signed by Mr. Vizier on 27 March 1995 has been provided. The agreement states that it is dependent on certain conditions being met for the invention to belong to the employer. For such an agreement, a statement of facts by someone with firsthand knowledge of the circumstances in which those

conditions have been met is required. See MPEP § 409.03(f). No such statement of facts has been provided. The "COMMUNICATION OF AN INVENTION" signed by Mr. Vizier on 03 October 2000 has been considered but is not an assignment and does not substitute for a statement of facts by someone with firsthand knowledge.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". 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

13 SEP 2005

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Philips Electronics North America Corporation
P O Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
VIZIER, Franck	:	
Application No.: 10/492,449	:	
PCT No.: PCT/IB02/04303	:	
Int. Filing Date: 16 October 2002	:	**DECISION ON**
Priority Date: 16 October 2001	:	**RENEWED PETITION**
Attorney Docket No.: FR 010145	:	**UNDER 37 CFR 1.47(b)**
For: DATA ENTRY PAD AND AN	:	
ELECTRONIC APPARATUS	:	
INCORPORATING IT	:	

This is a decision on the papers filed 16 June 2005.

BACKGROUND

On 03 January 2005, a decision dismissing applicant's petition under 37 CR 1.47(b) was mailed. Applicant failed to satisfy items (2) and (5) of 37 CFR 1.47(b). Applicants were given two months to respond.

On 16 June 2005, applicants submitted a response which was accompanied by, *inter alia*, a declaration signed by the sole inventor.

DISCUSSION

In their response to the decision mailed 03 January 2005, petitioner included a declaration signed by the sole inventor. This declaration complies with 37 CFR 1.497(a) and (b). However, a four-month extension fee of $1,530.00 is also required. This fee has been charged to Deposit Account No. 14-1270 as authorized by the papers filed 13 April 2004.

No further action on the petition under 37 CFR 1.47(b) is required.

CONCLUSION

Accordingly, the petition under 37 CFR 1.47(b) is **DISMISSED** as **MOOT**.

Applicant has completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 16 October 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 16 June 2005.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

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In re Application of	:	
Ove Ohman et al	:	
Application No. 10/492,453	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 514862001100	:	FROM RECORD
	:	

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

The request is **APPROVED**.

The request was signed by Michael R. Ward on behalf of the practitioners of record associated with Customer Number 20872.

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

There is an outstanding Office action mailed January 6, 2010 that requires a reply from the applicant.

All future correspondence will be directed to inventor Ove Ohman at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Ove Ohman
Asplunda, Uppsala-Nas
Uppsala, Sweden S-755 91

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/492,453	10/18/2004	Ove Ohman	514862001100

CONFIRMATION NO. 1869

POWER OF ATTORNEY NOTICE

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

OC000000040445231

Date Mailed: 03/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2009.

- 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.

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/492,453	10/18/2004	Ove Ohman	514862001100

CONFIRMATION NO. 1869

POA ACCEPTANCE LETTER

Ova Ohman
Asplunda, Uppsala - Nas
Uppsala, S-75591
SWEDEN

OC000000040445237

Date Mailed: 03/08/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/02/2009.

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.

/idingle/

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

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

Mail Date: 04/21/2010

Applicant	: Karl Schrodinger	: DECISION ON REQUEST FOR
Patent Number	: 7609733	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **487** 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.

3 JAN 2005

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BOZICEVIC, FIELD & FRANCIS LLP
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EAST PALO ALTO, CA 94303

In re Application of ROZENGURT, Juan E. et al. Application No.: 10/492,470 PCT No.: PCT/US02/32664 Int. Filing Date: 11 October 2002 Priority Date: 12 October 2001 Attorney's Docket No.: UCLA-003 For: GASTROINTESTINAL CHEMOSENSORY RECEPTORS	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Petition For Filing When Inventor Cannot Be Reached" filed on 29 October 2004. A review of the papers reveals an indication that joint inventor John Harley Walsh is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 October 2002, applicants filed international application PCT/US02/32664, which claimed a priority date of 12 October 2001. The deadline for entry into the national stage in the United States was 12 April 2004.

On 12 April 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 29 June 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 29 October 2004, applicants filed the instant petition accompanied by the fee for a two month extensions of time.

DISCUSSION

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

Inventor John Harley Walsh is deceased, not unavailable. The declaration must be executed by the legal representative of the estate of Mr. Walsh. 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 John Walsh." It appears from applicants' statements that a legal representative had been appointed, but has since been dismissed. It appears that applicants must have the estate reopened and an executor re-appointed.

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 M. Pender

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19 JUL 2005

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In re Application of ROZENGURT, Juan E. et al. Application No.: 10/492,470 PCT No.: PCT/US02/32664 Int. Filing Date: 11 October 2002 Priority Date: 12 October 2001 Attorney's Docket No.: UCLA-003 For: GASTROINTESTINAL CHEMOSENSORY RECEPTORS	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Petition For Filing When An Inventor Refuses to Sign" filed on 03 May 2005. A review of the papers reveals a legal representative is not currently appointed. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 October 2002, applicants filed international application PCT/US02/32664, which claimed a priority date of 12 October 2001. The deadline for entry into the national stage in the United States was 12 April 2004.

On 12 April 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 29 June 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 29 October 2004, applicants filed the instant petition accompanied by the fee for a two month extensions of time.

On 03 January 2005, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 03 May 2005, applicants submitted a second petition under 37 CFR 1.47(a). It was again treated as a request for status under 37 CFR 1.42.

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.

Inventor John Harley Walsh is deceased, not unavailable. According to applicants' account, there currently is not a legal representative; the legal representative does not refuse to sign. A 37 CFR 1.47(a) petition is appropriate only when an inventor refuses to sign or when an appointed legal representative refuses to sign. This is neither. The declaration must be executed by the legal representative of the estate of Mr. Walsh. A legal representative had been appointed, but has since been discharged. In such a case, the legal representative must be reappointed. MPEP 409.01(c). Sending paperwork to the *former* legal representative is not sufficient as the legal representative was discharged and no longer has authority to speak for the deceased inventor.

CONCLUSION

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

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

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#9

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24 JUL 2006

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVE
SUITE 200
EAST PALO ALTO, CA 94303

In re Application of	:	
ROZENGURT, Juan E. et al.	:	
Application No.: 10/492,470	:	DECISION ON
PCT No.: PCT/US02/32664	:	
Int. Filing Date: 11 October 2002	:	REQUEST
Priority Date: 12 October 2001	:	
Attorney's Docket No.: UCLA-003	:	UNDER 37 CFR 1.42
For: GASTROINTESTINAL CHEMOSENSORY	:	
RECEPTORS	:	

This is a decision on applicants' "Communication" filed on 28 March 2006. Applicants' submission has been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 19 July 2005, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicant's request and setting a two month extendable period for reply.

On 28 March 2006, applicants filed the instant renewed request under 37 CFR 1.42.

DISCUSSION

A review of the period from reply indicates that this application is abandoned for failure to timely reply to the 19 July 2005 decision. Applicants may wish to consider filing a petition for revival.

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.

Applicants have supplied a declaration executed by the legal representative of deceased inventor John Harley Walsh. However, the declaration fails to comply with 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. The declaration lists the inventors, but does not appear to list the citizenship of the deceased inventor and does not list the residence or postal address for the legal representative.

Additionally, it is noted that the earlier declarations of the inventors did not list the citizenship of the deceased inventor either. As such, applicants must provide a declaration in compliance with 37 CFR 1.497(a)-(b) from the inventors and the legal representative.

CONCLUSION

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

This application is **ABANDONED**.

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. 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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In re Application of	:	
ROZENGURT, Juan E. et al.	:	
Application No.: 10/492,470	:	DECISION ON
PCT No.: PCT/US02/32664	:	
Int. Filing Date: 11 October 2002	:	REQUEST
Priority Date: 12 October 2001	:	
Attorney's Docket No.: UCLA-003	:	UNDER 37 CFR 1.42
For: GASTROINTESTINAL	:	
CHEMOSENSORY RECEPTORS	:	

This is a decision on applicants' "Request for Withdrawal of Holding of Abandonment" filed on 17 August 2006 and applicants' renewed submission of 04 October 2006.

BACKGROUND

On 24 July 2006, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicant's request and indicating that the application was abandoned for failure to timely reply to the 19 July 2005 Decision On Request.

On 17 August 2006, applicants filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

On 04 October 2006, applicants filed a renewed request under 37 CFR 1.42.

On 27 October 2006, applicants filed a copy of the 04 October 2006 submission via facsimile.

DISCUSSION

In the 17 August 2006 submission, applicants file a copy of what they claim was submitted on 17 February 2006 in response to the 19 July 2005 Decision On Request. That 17 February 2006 submission is not present in the application. A petition to accept a copy of a what applicant claims was earlier submitted must be accompanied by a copy of the submission and proof of the earlier submission.

Applicants have provided a copy of the response, state that it is a copy of the 17 February 2006 submission and have provided a postcard receipt date-stamped by the Office, listing the

renewed submission under 37 CFR 1.42. The copy of the submission is accepted as having been received on 17 February 2006 . It is sufficient to withdraw the holding of abandonment.

However, as applicants' subsequent submissions duplicated or mooted the 17 February 2006 submission, it will not be addressed further.

The 04 October 2006 declaration of the legal representative and the 29 October 2004 declaration, in combination, satisfy the requirements of 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.181 to withdraw the holding of abandonment and the request for status under 37 CFR 1.42 are **GRANTED**.

The application has a date of 04 October 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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GROSSMAN & FLIGHT
SUITE 4220
20 NORTH WACKER DRIVE
CHICAGO, IL 60606

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FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John C. Peiffer et al	:	
Application No. 10/492,471	:	ON PETITION
Filed: April 12, 2004	:	
Attorney Docket No. 20004/1-US-2	:	

This is a decision on the petition filed October 12, 2004, which is being treated under 37 CFR 1.78(a)(3), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed PCT Application No. PCT/US02/32043, filed October 9, 2002, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1. 78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

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 MPEP 1893.03 (b) and (c). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

While it is noted that the Office picked up the claim for priority to U.S. nonprovisional Application No. 09/973,893 (and hence no petition therefor is required under 37 CFR 1.78(a)(3)), there is no indication anywhere in the application that a proper reference was made. In this regard, the original specification and the amendment filed with the petition both "claim priority" to the aforementioned application, but fails to state the relationship of the application to the instant application; i.e., continuation, division, or continuation-in-part. Despite the absence of a

relationship, the Office nevertheless denoted Application No. 09/973,893 as a continuation-in-part. Petitioner is advised that a proper amendment stating the relationship of the continuing application to the instant application should be submitted.

Any questions concerning this decision on petition may be directed to Wan Laymon at (703) 306-5685. 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 2685 for examination in due course.

Frances Hicks

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

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Drinker Biddle & Realth
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103

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APR 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,271,814 :
Issue Date: September 18, 2007 :
Application No. 10/492,472 : ON PETITION
Filed: April 12, 2004 :
Patentee(s): Majid Anwar, et. al. :

This is a decision on the request under 37 CFR 3.81[1], filed March 25, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Christopher P. Bruenjes 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. If Mr. Bruenjes 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.

Since the present request complies with the requirements of 37 CFR 3.81, the request is **GRANTED**.

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.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Christopher P. Bruenjes
Drinker Biddle & Reath (DC)
1500 K Street, N.W. - Suite 1100
Washington, DC 20005-1209

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

23 FEB 2005

#9

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

In re Application of	:	
WILLSON et al.	:	
Application No.: 10/492,489	:	DECISION
PCT No.: PCT/US02/32408	:	
Int. Filing Date: 09 October 2002	:	
Priority Date: 09 October 2001	:	
Attorney Docket No.: ELE07 P-301	:	
For: NICKEL HYDROGEN BATTERY	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 18 January 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 October 2002, applicants filed international application PCT/US02/32480, which designated the United States and claimed a priority date of 09 October 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 17 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 April 2004.

On 09 April 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 an assertion of small entity status.

On 12 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 inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for reply.

On 18 January 2005, applicants filed, *inter alia*, a petition/fee for a four month extension of time, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, three declarations of inventors, and a statement of facts by Albert L. Hutton, III.

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 under 37 CFR 1.17(g) as of 22 November 2005 is $200. Applicants have paid $130. The balance of $70 has been charged to Deposit Account 16-2463. Thus, item (1) has been satisfied.

Item (4) has also been satisfied.

Item (2) has not been satisfied. It is not clear that the non-signing joint inventor Steven S. Garrant was presented with a copy of the application papers (specification, including claims, drawings, and oath or declaration). While paragraph 6 of the declaration states that Mr. Garrant indicated that he received the documents in a telephone call on 28 December 2004, it is not clear whether this acknowledgment refers to the set of documents mailed 08 September 2004, which included the specification, or the set of documents mailed sometime after that, which does not appear to have included the specification.

Item (3) has not been satisfied. Paragraph 7 of the application states that Mr. Garrant indicated that he had moved to Vermont but that he did not provide a new mailing address. Petitioner should obtain this address since if the petition under 37 CFR 1.47(a) is ultimately granted, a notice stating such is sent to the last known address of the non-signing inventor.

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
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31 AUG 2005

#11

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

In re Application of WILLSON et al. Application No.: 10/492,489 PCT No.: PCT/US02/32408 Int. Filing: 09 October 2002 Priority Date: 09 October 2001 Attorney Docket No.: ELEN07 P-301 For: NICKEL HYDROGEN BATTERY	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 26 July 2005.

BACKGROUND

On 18 January 2005, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Steven S. Garrant. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the 37 CFR 1.47(a) applicant on behalf of Steven S. Garrant, and a statement of facts under 37 CFR 1.47(a).

On 23 February 2005, a decision dismissing the petition was mailed indicating that petitioner failed to demonstrate that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/492,489 (specification, including claims, drawings, and declaration) to the nonsigning inventor for their signature, to Mr. Garrant's last known address.

On 26 July 2005, applicants filed the instant renewed petition under 37 CFR 1.47(a) along with a supplemental declaration of Albert L. Hutton, III.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1) and (4). Item (3) is now satisfied with the submission of Mr. Garrant's last known address.

With respect to item (2), Petitioner submitted a Supplemental Declaration of Facts under 37 CFR 1.47(a) executed by Albert L. Hutton, III, attorney for assignee ElectraStor, LLC. Mr. Hutton states on 28 April 2005, he sent Mr. Garrant (to his current home address which Mr. Hutton obtained on 25 April 2005), the patent application together with the Declaration and a copy of the previously executed Assignment. The application was sent to Mr. Garrant via U.S. Postal Service Certified Mail, Return-Receipt requested. Mr. Garrant signed for the delivery on 30 April 2005; a copy of the Certified Mail, Return Receipt was attached to the Statement of Facts. In his 11 January 2005 statement, Mr. Hutton recalled that Mr. Garrant expressed dissatisfaction with ElectroStor and probably would not sign the Declaration . Apparently, Mr. Garrant did not respond to the 28 April 2005 letter and the USPTO is relying on petitioner's duty of candor and good faith that Mr. Garrant did not respond to the 28 April 2005 letter. Mr. Garrant's failure to respond can be construed to be a refusal to sign the application. This is sufficient evidence that Mr. Garrant received the Declaration and above-identified patent application on 30 April 2005 and supports a finding that by his conduct, the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) with respect to Steven S. Garrant 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 18 January 2005. The application has an international filing date of 09 October 2002 under 35 U.S.C. 363, and a date of 18 January 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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

31 AUG 2005

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STEVEN S. GARRANT
1 GREENWOOD WAY
MOUNT VERNON, NEW HAMPSHIRE 03057

In re Application of WILLSON et al.	DECISION ON
Application No.: 10/492,489	
PCT No.: PCT/US02/32408	RENEWED PETITION
Int. Filing: 09 October 2002	
Priority Date: 09 Octob er 2001	UNDER 37 CFR 1.47(a)
Attorney Docket No.: ELEN07 P-301	
For: NICKEL HYDROGEN BATTERY	

Dear Mr. Garrant:

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

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
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GRAND RAPIDS MI 49501

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FEB 25 2008

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

In re Application of :
Francine Behar et al :
Application No. 10/492,494 :
Filed: April 9, 2004 :
Attorney Docket No. 079777-0555 (EGS-004) :

ON PETITION

This is in decision on the petition, filed September 19, 2006, which is being treated as a petition under 37 CFR 1.47(a).

The petition is **dismissed.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that the inventor, Francine Behar, refuses to join in the application after having been presented with the application papers (specification, claims and drawings). However, it is not merely enough that Ms. Behar's signature on the declaration was requested. Petitioner must demonstrate that Ms. Behar was presented with a copy of the application papers (specification, claims and drawings) filed in the United States Patent and Trademark Office (USPTO). The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was make to present a copy of the application papers to the non-signing inventor for signature. Unless petitioner can show that a copy of the application papers was presented to the non-signing inventor or that the non-signing inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, then petitioner will have to mail a copy of

the complete application papers (specification, claims and drawings) to the non-signing inventor's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. **The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc.** See MPEP 409.03(d). The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives 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 rule 47 petitioner that the omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever the omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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

David Bucci
Petitions Examiner
Office of Petitions

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FOLEY & LARDNER LLP
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BOSTON, MA 02199-7610

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In re Application of	:	
Francine Behar et al.	:	
Application No. 10/492,494	:	DECISION NOTING JOINDER
Filed: April 9, 2004	:	OF INVENTORS AND PETITION
Attorney Docket No. 079777-0555 (EGS-004)	:	UNDER 37 CFR 1.47 (a) MOOT

Papers filed on September 11, 2008, includes a Declaration signed by previously nonsigning inventor Francine Behar is in compliance with 37 CFR 1.63.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47 (a) is moot; this application does not have any rule 1.47 (a) status. This application need not be returned to this office for any further consideration under 37 CFR 1.47 (a).

This matter is being referred to Technology Center AU 3763 for examination in due course.

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

David Bucci
Petitions Examiner
Office of Petitions

15 JUL 2004

#4

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Steven E. Koffs
DUANE MORRIS, LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA PA 19103-7396

In re Application of Dennis J. Ciplickas et al Application No.: 10/492513 PCT Application No.: PCT/US02/27774 International Filing Date: 30 August 2002 Priority Date: 31 August 2001 Attorney Docket No.: D5116-00012/PCT For: TEST STRUCTURES AND MODELS FOR ESTIMATING THE YIELD IMPACT OF DISHING AND/OR VOIDS	DECISION ON PETITION UNDER 37 CFR 1.137 (b)

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 14 April 2004, to revive the above identified application.

BACKGROUND

On 30 August 2002, applicant filed international application number PCT/US02/27774 which claimed priority to an earlier filed United States provisional application 60/316,317 filed on 31 August 2001.

On 31 February 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 14 April 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 14 April 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $665 Petition fee (small entity); (2) a 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,".

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

CONCLUSION

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

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

Michael Lebentritt
Detailee
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Boris Milef
PCT Legal Examiner
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24 JUN 2004

#3

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Benton S. Duffett, Jr.
BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
Lars G. Wallin	:	
Application No.: 10/492521	:	
PCT Application No.: PCT/SE02/00713	:	DECISION ON
International Filing Date: 11 April 2002	:	
Priority Date: 11 April 2001	:	PETITION UNDER
Attorney Docket No.: 003301-137	:	
For: BARRIER DEVICE	:	37 CFR 1.137 (b)

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 14 April 2004, to revive the above-identified application.

BACKGROUND

On 11 April 2002, applicant filed international application number PCT/SE02/00713 which claimed priority to an earlier filed Sweden non-provisional application 0101305-1 filed on 11 April 2001.

On 12 October 2003, the international application became abandoned with respect to the failure to pay national stage filing fee within 30 months from priority date of the international application.

On 14 April 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 14 April 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $665 Petition fee (small entity); (2) a 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,".

On 14 May 2004, applicant submitted a combined declaration and power of attorney. The declaration is in compliance with 37 CFR 1.497(a) and (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 according the application a date under 35 U.S.C. 371(C)(1), (2), and (4) of 14 May 2004.

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

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OFFICE OF PETITIONS

In re Application of	:	
RIDHWAN, et al.	:	
Application No. 10/492,527	:	DECISION ON PETITION
Filed: April 23, 2004	:	TO WITHDRAW
Attorney Docket No. RIDH3001/JEK	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 15, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A. does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **BACON & THOMAS, PLLC**
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

07 DEC 2004

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

In re Application of
GERARD, et al.
Application No.: 10/492,529
PCT No.: PCT/EP02/11904
Int. Filing Date: 22 October 2002
Priority Date: 24 October 2001
Attorney Docket No.: 252241US3PCT
For: SYSTEM AND METHOD FOR CLOSING OFF AN OPENING IN A TANK

DECISION ON REFUND

This decision is in response to applicant's request for refund filed 08 September 2004 in the United States Patent and Trademark Office (USPTO) requesting refund of the $130.00 surcharge deducted from Deposit Account No.: 15-0030 on 17 August 2004.

Applicant states that: "The declaration was filed on June 2, 2004....**The deadline for filing the declaration without paying the late surcharge is 32 months from the priority date making the declaration due on June 24, 2004. Thus, the declaration was filed within the 32 month deadline and no surcharge is due.**" This is incorrect. 37 CFR 1.495(c) states in part: "The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of thirty months after the priority date." The deadline for providing an executed oath or declaration of the inventors without payment of the surcharge was 24 April 2004. As such, the surcharge was properly deducted from the deposit account.

Applicant's request for refund is **DISMISSED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for continued processing.

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

13 MAR 2006

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Commissioner for Patents
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Bruce H. Bernstein
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
MATSUBARA	:	
Application No.: 10/492,533	:	
PCT No.: PCT/JP02/11663	:	DECISION
International Filing Date: 08 November 2002	:	
Priority Date: 09 November 2001	:	
For: VIDEO SYNTHESIZER	:	

This is a decision in response to applicant's Request For Correction Of Filing Receipt filed by facsimile on 13 July 2005 which is being treated as a petition under 37 CFR 1.181 to correct information on the filing receipt.

Specifically, applicant requests that the title on the filing receipt be corrected to read "Video Synthesizing Apparatus".

A review of the application file reveals that the international publication included the title exactly as shown on applicant's filing receipt. MPEP 1893.03(e) indicates that the title on the international publication will appear on the filing receipt unless a different tile is provided in a preliminary amendment or on an application data sheet. Neither a preliminary amendment nor an application data sheet containing an amended title has been filed.

Applicants' petition under 37 CFR 1.181 is **DISMISSED**.

Michael A. Neas
PCT Special Program Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3289
Facsimile: 571-272-0459

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

Mail Date: 04/20/2010

Applicant	: Hiroshi Yokogawa	: DECISION ON REQUEST FOR
Patent Number	: 7582351	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,534	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **905** 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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SUITE 1600
CHICAGO IL 60603-3406

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CANCELLED

In re Application of	:	
Pantev, Georgi	:	
Application No. 10/492,538	:	ON PETITION
Filed: April 27, 2004	:	
Attorney Docket No. 7820/89848	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 25, 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.

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

13 AUG 2004

#3

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PATENT DEPARTMENT
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.
1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON, MN 55431

In re Application of WILLIAMS et al	:	
U.S. Application No.: 10/492,578	:	
PCT Application No.: PCT/US02/33318	:	DECISION
Int. Filing Date: 18 October 2002	:	
Priority Date Claimed: 18 October 2001	:	
Attorney Docket No.: 26,136-14	:	
For: ELECTRO-NERVE STIMULATOR SYSTEM AND METHODS	:	

This is in response to the papers filed 13 April 2004, including a declaration signed by the legal representative of deceased inventor Piet Van Helvoirt, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 18 October 2002, applicant filed international application PCT/US02/33318, which claimed priority of an earlier United States application filed 18 October 2001. The thirty-month period for paying the basic national fee in the United States expired on 18 April 2004.

On 13 April 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present request for status under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration signed by the Piet Van Helvoirt is improper because it does not list the citizenship of the legal representative as required by 37 CFR 1.497(b)(2). Applicant is advised that a declaration may not be amended. See MPEP 602.01. Thus, a declaration newly executed by the legal representative is required.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

19 NOV 2004

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BLOOMINGTON, MN 55431

In re Application of WILLIAMS et al	:	
U.S. Application No.: 10/492,578	:	
PCT Application No.: PCT/US02/33318	:	DECISION
Int. Filing Date: 18 October 2002	:	
Priority Date Claimed: 18 October 2001	:	
Attorney Docket No.: 26,136-14	:	
For: ELECTRO-NERVE STIMULATOR SYSTEM AND METHODS	:	

This is in response to the "Renewed Request for Status Under 37 C.F.R. § 1.42" filed 13 September 2004.

BACKGROUND

On 18 October 2002, applicant filed international application PCT/US02/33318, which claimed priority of an earlier United States application filed 18 October 2001. The thirty-month period for paying the basic national fee in the United States expired on 18 April 2004.

On 13 April 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a request for status under 37 CFR 1.42.

On 13 August 2004, this Office mailed a decision dismissing the 13 April 2004 request for status.

On 13 September 2004, applicant filed the present renewed request for status under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration executed by the legal representative of Piet Van Helvoirt is in compliance with 37 CFR 1.42 and 1.497.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 18 October 2002, and a date under 35 U.S.C. 371(c) of 13 September 2004.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

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OFFICE OF PETITIONS

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 DIAGNOSTIC ROAD, SUITE 300
ALEXANDRIA VA 22314

In re Application of :
Gerard Vieux, et al. :
Application No. 10/492,597 : ON PETITION
Filed: April 15, 2004 :
Attorney Docket No. 4590-285 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 28, 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). A one-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; 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 2884 for processing of the RCE and the previously filed amendment and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

27 FEB 2006

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James A. Oliff
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	
Sasaki et al.	:	
Serial No.: 10/492,604	:	
PCT No.: PCT/JP02/10671	:	
Int. Filing Date: 15 October 2002	:	
Priority Date: 15 October 2001	:	DECISION
Attorney's Docket No.: 119419	:	
For: INORGANIC ANTIBACTIERIAL AGENT,	:	
ANTIBACTERIAL MOLDED RESIN PRODUCT	:	
USING THE AGENT AND METHOD OF	:	
PRODUCING THE PRODUCT	:	

This decision is responsive to the "SECOND REQUEST FOR CORRECTION OF PALM RECORDS" filed 26 July 2005.

BACKGROUND

On 15 October 2002, applicants filed international application PCT/JP02/10671, which claimed priority of an earlier Japanese application which was filed 15 October 2001. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 15 April 2004.

On 15 April 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, an application data sheet, an English language translation and a check for the basic national fee. These papers were assigned Application No. 10/492,604.

On 26 July 2005, applicants filed the current paper which included a request for a corrected filing receipt, and a Supplemental Application Data Sheet.

DISCUSSION

MPEP § 601.05 states, in part:

When submitting an application data sheet supplemental to the initial filing of the application, to correct, modify, or augment the original application data sheet, the following applies:

(A) the supplemental application data sheet should be labeled "Supplemental Application Data Sheet;"

(B) a full replacement copy of the original application data sheet should be submitted with any changes or additions underlined. For deletions without replacement data, use strike-through;

(C) the footer information should include the word "Supplemental" in place of "Initial" and should also contain the Application Number and Filing Date.

The substitute application data sheet is not labeled with the proper footer information. Therefore, the application data sheet cannot be entered.

With respect to the corrected filing receipt, the title and applicant information have been changed accordingly and the attorneys are now properly listed.

CONCLUSION

The request for corrected filing receipt is **GRANTED**.

The request to enter the substitute application data sheet is **DISMISSED**.

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.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

Enc: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090907

DATE : September 07, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7321059

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

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MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

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In re Application of Gareth Paul Bell, et al. Application No. 10/492,624 Filed: October 20, 2004 Attorney Docket No. PURE-P023US	: : : : :	ON PETITION

This is a decision in response to the petition, filed April 16, 2008, 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 Restriction Requirement mailed August 1, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on April 7, 2008. In response, on April 16, 2008 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 $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2871 for appropriate action by the Examiner in the normal course of business on the reply received April 16, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

20 DEC 2004

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of :
RIMLINGER, Thierry *et al* :
U.S. Application No.: 10/492,625 :
PCT No.: PCT/FR02/03529 :
Int. Filing Date: 15 October 2002 : **DECISION**
Priority Date: 13 December 2000 :
Attorney's Docket No.: 50318/002001 :
For: ACTUATOR UNIT FOR AN ELECTRO- :
HYDRAULIC BRAKE SYSTEM :

This decision is in response to applicants' "Response to Notification of Defective Response" filed 29 November 2004 which is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 04 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*, an English translation and processing fee of $130.00 was required. The Notification also noted that the declaration provided 14 April 2004 was not in compliance with 37 CFR 1.63 because it did not identify the mailing address of each inventor. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 04 October 2004, applicants submitted a response which included an English translation and a $130.00 processing fee.

On 29 October 2004, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 14 April 2004 was not in compliance with 37 CFR 1.497(a) and (b) because it did not identify the citizenship of the inventors.

On 29 November 2004, applicants submitted the instant response.

DISCUSSION

In the response filed 29 November 2004, applicants argue that "the Application Data Sheet filed with the application and executed declaration on April 14, 2004 identifies the cities and countries of residence of each inventor, thereby complying with

§1.76." Moreover, applicants contend that "[n]owhere in the August 4, 2004 Notification of Missing Requirements does the Patent Office assert that identification of inventors' citizenship is required."

A review of the file reveals that applicants are correct.

The Form PCT/DO/EO/905 failed to mention that the declaration submitted with the national stage papers on 14 April 2004 did not comply with 37 CFR 1.497(a) and (b) by not providing the citizenship of each inventor. Applicants had no notice of this defect in the declaration. Hence, the time period to provide a declaration in compliance with 37 CFR 1.497(a) and (b) will be reset.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is hereby **GRANTED**.

Accordingly, the Notification of a Defective Response (Form PCT/DO/EO/916) mailed 29 October 2004 is hereby **VACATED**.

Applicants have **TWO (2) MONTHS** to provide a declaration in compliance with 37 CFR 1.497(a) and (b). Extensions of time are available under 37 CFR 1.136(a). Failure to properly respond will result in abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

23 JUN 2004

#3

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Benjamin Y. Roca
Office of Patent Counsel
The Johns Hopkins University Applied Physics Laboratory
Mail Stop 7-156
11100 Johns Hopkins Road
Laurel, MD 20723-6099

In re Application of	:	
SMITH et al	:	
Application No.: 10/492,628	:	DECISION ON
PCT Application No.: PCT/US02/32459	:	
International Filing Date: 09 October 2002	:	PETITION
Priority Date: 10 October 2001	:	
Attorney Docket No.: 1719-SPL	:	UNDER 37 CFR 1.137(b)
For: DIGITAL GEOPHONE SYSTEM	:	

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 14 April 2004 is **GRANTED**.

BACKGROUND

On 09 October 2002, applicants filed international application PCT/US02/32459. The international application claims a priority date of 10 October 2001 and designates the United States. A copy of the international application was furnished for the United States National Stage by the United States Receiving Office (RO/US). The deadline for payment of the basic national fee in the United States National Stage was thirty months from the priority date, that is 10 April 2003. Applicants missed this deadline.

On 14 April 2004, applicants filed the instant petition to revive accompanied by, *inter alia*, the requisite basic national fee for entry into the national stage, a declaration of the inventors, the petition fee for the instant petition, and the surcharge fee for filing the declaration of the inventors later than thirty months from the priority date. The fees were paid by authorization to charge Applicants' Deposit Account.

DISCUSSION

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

accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Payment of the basic national fee constitutes a proper reply.

Applicants' petition states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," which satisfies the requirement under 37 CFR 1.137(b)(3). The submission of the national fee satisfies 37 CFR 1.137(b)(1). 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.

Payment of the requisite basic national fee for entry into the national stage satisfies 35 U.S.C. 371(c)(1). The copy of the international application furnished by United States Receiving Office satisfies the requirement under 35 U.S.C. 371(c)(2). The declaration of the inventors satisfies the requirement under 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 09 October 2002 under 35 U.S.C. 363 and a date of 14 April 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
Detailed
PCT Legal Administration

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MORRISON & FOERSTER LLP
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SUITE 400
MCLEAN VA 22102

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :

LUTTGE, Karsten :
Application No. 10/492,636 : DECISION ON PETITION
Filed: April 14, 2004 : TO WITHDRAW
Attorney Docket No. **449122071300** : 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 01, 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: **KARSTEN LUTTGE**
EHRENFELSSTR. 45
BERLIN, GERMANY 10318

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of	:	
Tilman U. SCHLENKER	:	
Application No. 10/492,663	:	DECISION ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. NL 010707	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 30, 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)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office of November 30, 2006 is accepted as having been unintentionally delayed.

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

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2879 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **WEN LIU**
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES, CA 90071

01 MAR 2005

#6

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100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of: REIZLEIM, Karl, et al.	:	
U.S. Application No.: 10/492,674	:	
PCT No.: PCT/EP02/11613	:	DECISION ON PAPERS
International Filing Date: 17 October 2002	:	SUBMITTED UNDER
Priority Date: 18 October 2001	:	37 CFR 1.42
Attorney's Docket No.: CS8161/LeA 35,177	:	
For: POWDERY ACTIVE INGREDIENT	:	
FORMULATIONS	:	

This decision is issued in response to the 07 February 2005 submission of a declaration executed on behalf of deceased inventor Kirsten WESTESEN by the guardian of heir Jonas HINNEN, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 15 April 2004, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee.

On 04 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 07 February 2005, applicants filed a response to the Notification of Missing Requirements. This response included payment for the required surcharge and extension fees, and a declaration executed by the surviving inventors and on behalf of the deceased inventor by the guardian of his heir.

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

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

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

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration submitted on 07 February 2005 identifies the deceased inventor and states the inventor's country of citizenship and residence, as required for compliance with 37 CFR 1.497(a)(3). The declaration states the relationship of the heir to the deceased (i.e., "minor heir") and provides the citizenship and residence of the heir, as also required, and counsel states that the Jonas Hinnen is the sole heir of the deceased inventor. However, the declaration is not executed by the sole heir, but by the guardian of the sole heir (from the accompanying documents, this guardian appears to be the heir's father). Under such circumstances, where the guardian is signing as legal representative of the sole heir, the declaration must also provide the name, citizenship, and residence of the guardian/legal representative, and a statement of his/her relationship to the heir (i.e., "Albert Hinnen as guardian of Jonas Hinnen, sole heir of the deceased inventor Kirsten Westesen"). As the present declaration does not contain this required information, it cannot be accepted under 37 CFR 1.42 and 1.497.

In addition, it is noted that the copies of the court documents accompanying the declaration refer to the child of the deceased inventor as Jonas Westesen, not Jonas Hinnen (as listed in the declaration and identified by counsel). Some clarification must be provided to confirm that the name of the heir in the declaration is his correct name.

CONCLUSION

The 07 February 2005 submission under 37 CFR 1.42 is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment.

A proper response must include a declaration executed by the sole heir or legal representative of the deceased inventor that includes all required information under 37 CFR

1.497, including the name, relationship, citizenship, and residence of any guardian signing on behalf of the deceased inventor's heir, as discussed above. Such response should also confirm that the correct name of the heir is Jonas Hinnen, as listed in the declaration, and not Jonas Westesen, as set forth in the accompanying documents (if the heir's correct name is Jonas Westesen, then the revised declaration should identify him as such, and counsel must provide a statement that Jonas Westesen is the sole heir 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

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

22 SEP 2005

#8

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In re Application of: REIZLEIM, Karl, et al. U.S. Application No.: 10/492,674 PCT No.: PCT/EP02/11613 Int'l Filing Date: 17 October 2002 Priority Date: 18 October 2001 Attorney's Docket No.: CS8161/LeA 35,177 For: POWDERY ACTIVE INGREDIENT FORMULATIONS	DECISION ON PETITION UNDER 37 CFR 1.181 AND RENEWED SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to applicants' facsimile submission of 08 September 2005, treated herein as: (1) a petition under 37 CFR 1.181 to confirm the 21 April 2005 filing of a response to the "Decision On Papers Submitted Under 37 CFR 1.42" mailed by this Office on 01 March 2005; and (2) a renewed submission under 37 CFR 1.42.

BACKGROUND

The background of this application is set forth in the decision mailed 01 March 2005. In that decision, applicants' submission under 37 CFR 1.42 was refused without prejudice for failure to include all required information. Specifically, the decision stated that the declaration was defective for failure to include the name, citizenship, and residence of the person signing on behalf of the minor heir of the deceased inventor, as well as a statement of this person's legal relationship to the minor heir. The decision also required clarification as to the name of the minor heir, which was listed differently in the declaration and in the accompanying documents.

On 08 September 2005, applicants filed by facsimile the materials considered herein. The submission includes copies of materials purportedly filed by applicants on 21April 2005 in response to the previous decision, as well as a copy of a postcard receipt itemizing these materials and bearing a USTPO receipt stamp dated 21 April 2005.

DISCUSSION

1. Petition Under 37 CFR 1.181

Based on applicants' statements and the stamped return postcard, it is concluded that the "Response Under 37 CFR 1.497(b)" and accompanying materials were originally filed in the USPTO on 21 April 2005. The materials are therefore treated as a timely response to the decision mailed 01 March 2005.

2. Renewed Submission Under 37 CFR 1.42

The renewed submission includes a statement from counsel and a "supplemental Declaration from Dr. Albert HINNEN, the minor heir's father. These materials confirm that the correct name of the minor heir of the deceased inventor is Jonas HINNEN, as set forth on the filed declaration, such name having been legally changed from Jonas WESTESEN. These materials provide the required clarification regarding the heir's name.

The Supplemental Declaration from Dr. HINNEN includes the name, address, and citizenship of Dr. HINNEN, and states that Dr. HINNEN is the "father and guardian" of the minor heir, Jonas HINNEN. However, as set forth in the previous decision, 37 CFR 1.497(b) requires that such information be contained in the inventor's declaration itself; the submission of the supplemental declaration therefore is not sufficient to make the previously filed declaration executed by the minor heir acceptable under 37 CFR 1.42 and 1.497.

Applicants must submit a new declaration that includes all the information required under 37 CFR 1.497(a) and (b), including the name, citizenship, and residence information for all the inventors (including the deceased inventor), the minor heir, and the guardian of the minor heir. As discussed in the previous decision, the declaration must also expressly state the legal relationship of the person executing the declaration on behalf of the heir and the deceased inventor (i.e., "Dr. Albert HINNEN, guardian of Jonas HINNEN, minor, sole heir of deceased inventor Kirsten WESTESEN).

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials accompanying the 08 September 2005 submission are treated as having been filed on 21 April 2005 as a timely response to the decision mailed on 01 March 2005.

The renewed submission under 37 CFR 1.42 and 1.497 is **REFUSED** without prejudice.

Applicant have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497, as discussed above and in the previous decision. Failure to file a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, 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.

RMR

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

UNITED STATES PATENT AND TRADEMARK OFFICE

#11

20 JAN 2006

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

Patent Department
BAYER CROPSCIENCE LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of: REIZLEIM, Karl, et al.
U.S. Application No.: 10/492,674
PCT No.: PCT/EP02/11613
Int'l Filing Date: 17 October 2002
Priority Date: 18 October 2001
Attorney's Docket No.: CS8161/LeA 35,177
For: POWDERY ACTIVE INGREDIENT FORMULATIONS

DECISION ON SECOND RENEWED SUBMISSION UNDER 37 CFR 1.42

In a decision mailed by this Office on 22 September 2005, applicants were informed that the supplemental declaration filed on behalf of the deceased inventor was insufficient to satisfy the requirements of 37 CFR 1.497 and 1.42. The decision required submission of "a new declaration that includes all the information required under 37 CFR 1.497(a) and (b), including the name, citizenship, and residence information for all the inventors (including the deceased inventor), the minor heir, and the guardian of the minor heir."

On 28 November 2005, applicants filed a response to the previous decision that was accompanied by a revised declaration. The declaration submitted on 28 November 2005 identifies and provides the required information with respect to the inventors here, including the deceased inventor, the minor heir, and the legal representative of the minor heir. The declaration therefore complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

The request for status under 37 CFR 1.42 is **GRANTED**.

The application will be 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 28 November 2005.

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

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of
Andreas Jurisch
Application No. 10/492,691
Filed: April 15, 2004
Attorney Docket No. 449122069100

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 28, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

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

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Frank Mademann	:	
Application No. 10/492,692	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO WITHDRAW
Attorney Docket No. 449122072300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 28, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of :
Per Eivind Gramme :
Application No. 10/492,704 :
Filed: August 19, 2004 :
Attorney Docket No. 2004-0531A :

ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment" filed June 26, 2008 which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on January 16, 2008 for failure to file a timely response to the Final Office Action mailed October 15, 2008, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed June 20, 2008.

Petitioner asserts that a proper response in the form of a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 and three month extension of time was filed via facsimile transmission on April 14, 2008. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of facsimile transmission dated April 14, 2008, pursuant to 37 CFR 1.8, and was acknowledged by the U.S. Patent and Trademark Office in an Auto-Reply Facsimile Transmission.

The evidence submitted corroborates a timely response to the Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged. However, the fee for the three month extension of time filed April 14, 2008 has been charged to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3672 for appropriate action on the RCE and amendment filed April 14, 2008, a copy of which was submitted with the instant petition.

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

22 APR 2004

#3

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Ladas & Parry
5670 Wilshire Boulevard, Suite 2100
Los Angeles, CA 90036-5679

In re Application of BALDWIN et al	:	
U.S. Application No.: 10/492,708	:	
PCT Application No.: PCT/GB03/01151	:	DECISION
Int. Filing Date: 17 March 2003	:	
Priority Date Claimed: 18 March 2002	:	
Attorney Docket No.: B-5280PCT 621411-0	:	
For: AUDITING OF SECURE COMMUNICATION SESSIONS OVER A COMMUNICATIONS NETWORK	:	

This is in response to applicant's "Petition to Accord Filing Date for Express Mail Correspondence Received by P.T.O. (37 C.F.R. § 1.10(e))" filed 12 April 2004.

BACKGROUND

On 17 March 2003, applicant filed international application PCT/GB03/01151, which claimed priority of an earlier United Kingdom application filed 18 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 25 September 2003. The thirty-month period for paying the basic national fee in the United States expires on 18 September 2004.

On 12 November 2003, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail").

On 12 April 2004, applicant filed the present petition under 37 CFR 1.10(e).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(e) states,

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the Express Mail Post Office to Addressee service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the Express Mail mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail;
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the Express Mail mailing label thereon, a copy of any returned postcard receipt, a copy of the Express Mail mailing label showing the date-in, a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the date-in on the Express Mail mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the Express Mail Post Office to Addressee service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the Express Mail mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original Express Mail mailing label, returned postcard receipt, and official notation entered by the USPS.

With regard to item (1) above, the petition was filed promptly after applicant became aware that the USPTO has no evidence of receipt of the correspondence in question.

With regard to item (2) above, the Express Mail mailing label number appears on the copy of the correspondence.

With regard to item (3) above, applicant has provided a copy of the originally deposited papers and a copy of the Express Mail label showing a "date-in" of 12 November 2003.

With regard to item (4) above, the petition includes a sufficient statement that the correspondence was deposited on the date of notation by the USPS and that the copies of the correspondence and Express Mail mailing label are true copies of the originally mailed correspondence.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(e) is GRANTED.

The copies of the national stage papers submitted with the petition are hereby accorded an original receipt date of 12 November 2003.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

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GlaxoSmithKline
Corporate Intellectual Property, UW2220
709 Swedeland Road
King of Prussia PA 19406

In re Application of:	:	
ANGELL, Richard, Martyn, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/492,711	:	
PCT No.: PCT/EP02/11574	:	
International Filing Date: 16 October 2002	:	
Priority Date: 17 October 2001	:	
Atty Docket No.: PG4574USW	:	
For: OXADIAZOLYL-BIPHENYL-	:	
CARBOXAMIDES AND THEIR	:	
USE AS P38 KINASE INHIBITORS	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182" filed 12 September 2007. Because the error addressed in the petition was an error on the part of the USPTO, the petition is being treated under 37 CFR 1.181. Accordingly, no petition fee is required.[1]

BACKGROUND

On 09 July 2002, applicants filed international application PCT/EP02/11574. The international application claimed a priority date of 17 October 2001, and it designated the United States. On 24 April 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 17 April 2004.

On 15 April 2004, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, an information disclosure statement (IDS), and a preliminary amendment.

On 30 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 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.

On 29 October 2004, applicants filed an executed declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the declaration later than thirty months after the priority date.

[1] The $400 petition fee included with the present petition will be refunded to Deposit Account No. 19-2570.

On 02 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements " and the "Date Of Completion Of All U.S.C. 371 Requirements" as 29 October 2004. Also on 02 April 2004, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 29 October 2004.

On 24 March 2005, the application was published by the USPTO. The claims contained in the published application correspond to the claims in the international application, as amended by applicants in the preliminary amendment filed 15 April 2004; however, the description in the published application does not correspond to the description in the international application.

On 22 March 2007, a non-final Office Action rejecting the presented claims was mailed.

On 20 June 2007, applicants filed a response to the Office Action which included a second amendment to the claims.

On 22 August 2007, applicants submitted a "Communication" noting that the specification listed on PAIR (and included in the U.S. publication) was not the specification for the present application, but rather the specification of a cited prior art application.

On 24 August 2007, a final Office action rejecting the claims was mailed.

On 12 September 2007, applicants filed the petition considered herein. The petition asserts that the final Office Action mailed herein should be withdrawn in that it was based on the incorrect specification and USPTO error.

On 08 November 2007, applicants filed a "Response" to the Office Action mailed 24 August 2007 that included a further amendment of the claims and a Terminal Disclaimer.

DISCUSSION

A review of the application file, and the USPTO publication of the application, confirms the error identified by applicants in the present petition. Specifically, the "specification" identified in the USPTO's electronic application file (and set forth as the description in the U.S. publication) is actually the specification of a cited prior art application, while the proper specification of record for PCT/EP02/11574 was identified in the application file as a "document submitted with 371 applications." Based on the above error, the examination and Office Actions herein were based on the wrong disclosure and therefore are properly withdrawn.

The present application file will be corrected so as to properly identify the specification of record herein, that is, the specification of PCT/EP02/11574, as amended by the applicants' submissions herein.

CONCLUSION

The petition under 37 CFR 1.181 to correct the present application file is **GRANTED** to the extent discussed above.

The specification identified in the electronic application file will be corrected to correspond to the specification contained in international application PCT/EP02/11574, with the document currently identified as the specification properly identified as cited prior art.

The petition fee submitted herein will be will be refunded to Deposit Account No. 19-2570.

The Office Actions mailed herein on 22 March 2007 and 24 August 2007 are hereby **VACATED**.

The application will be referred to GAU 1609 for further processing, including examination of the application based on the correct specification.

Leonard Smith
Legal Examiner
Office of PCT Legal Administration

LS/rmr

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

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DAVI GEIGER
275 GREENWICH ST, APT 10L
NEW YORK, NY 10007-2154

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:
Hiroshi Ishikawa	:
Application No. 10/492,722	: DECISION ON PETITION
Filed: April 15, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. N010809US	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 2005, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner, Joel N. Bock (Bock), requests withdrawal of this application from issue on behalf of John Amico and Carmelo Sberna, who are styled as the two joint inventors of this application to the exclusion of the currently named sole inventor, for the purpose of filing a Request for Continued Examination (RCE) to have the Office consider an Information Disclosure Statement.

This application was filed on April 15, 2004 with an executed declaration signed by sole inventor Hiroshi Ishikawa and directing that all correspondence in this application be directed to Davi Geiger (who is not a registered practitioner before the USPTO) at the above address.

On August 4, 2005, registered practitioner Bock filed a petition under 37 CFR 1.48(a) to correct the inventorship in this application to add inventors John Amico and Carmelo Sberna, and delete originally named inventor Hiroshi Ishikawa. The petition is accompanied by statements from both John Amico and Carmelo Sberna stating how the error in failing to name the correct inventors without deceptive intent occurred. Additionally, the petition is accompanied by an executed declaration by John Amico and Carmelo Sberna, which additionally appoints petitioner (with Customer Number 26263) herein as their attorney.

37 CFR 1.48(a) requires the following as a condition for accepting correction of inventorship in an application:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor and **from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part**;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(I); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter. [Emphasis supplied.]

The petition under 37 CFR 1.48(a) lacks item (2) above. In this regard, a statement is required from originally named inventor Hiroshi Ishikawa stating how the error in naming him as an inventor in this application occurred without deceptive attention on his part. Additionally, whether there is an assignee *vel non* is unresolved.

Since the petition under 37 CFR 1.48(a) is **facially** not grantable, the power of attorney set forth in the executed oath by inventors John Amico and Carmelo Sberna is not acceptable. As such, the petition under 37 CFR 1.313(c)(2) is considered to not have been submitted by a proper party to this proceeding. Indeed, Bock does not aver, and it is likewise not apparent, that Bock is acting in even a representational capacity with respect to the interest of Ishikawa. That is, Ishikawa, as the current sole inventor, has an undivided 100% property right in this application. Ishikawa will be presumed to be the owner of the entire interest, as there is no evidence supplied by petitioner that Ishikawa has further conveyed his interest, in whole or in part, to another party. See 37 CFR 3.73(a). Ishikawa, as the only named inventor, has a property right in this application that can be canceled, revoked, or annulled only by proceedings that afford due process of law. Iowa State University Research Foundation v. Sperry Rand Corp., 444 F.2d. 406, 410, 170 USPQ 374, 377 (4th Cir. 1971). An *ex parte* proceeding in the USPTO is not the appropriate forum for the possible extinction of a property right in an application. See Baker Hughes, Inc. v. Kirk, 921 F.Supp. 801 (D.D.C. 1995). Rather, it is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership

disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Petitioner will not be permitted to unilaterally, and in an *ex parte* manner, diminish, much less extinguish, Ishikawa's property right herein.

Indeed petitioner has not shown, nor is it apparent, that he has any standing herein. Rather, the express language of 37 CFR 1.313 is directed only to the Office and to the applicant. Bock, Amico, and Sberna are advised that the Court of Appeals for the Federal Circuit (Federal Circuit) has refused to accord standing to third parties challenging Office actions (outside of the an interference) during the prosecution of an application for patent. See Animal Legal Defense Fund v.Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 ("We find nothing in the law which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. A third party has no right to intervene in the prosecution of a particular patent application to prevent the issuance of an allegedly invalid patent"). The Office has promulgated regulations permitting third parties to file protests and petitions for public use proceedings in applications that have not been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.291 and 1.292) and to file prior art submissions in applications that have been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.99). The rules of practice, however, do not permit a third party to petition the Office to withdraw an application from issue. That the Office does permit a third party to file certain papers in an application does not afford a third party with standing to challenge Office decisions in that application. Cf. Boeing Co. v. Commissioner of Patents and Trademarks, 853 F.2d 878, 881, 7 USPQ2d 1487, 1489 (Fed. Cir. 1988)(that a third party is permitted to participate in district court action concerning a reexamination proceeding does not imply that the third party has standing to appeal a district court decision favorable to patent owner).

Lastly, Bock, Amico, and Sberna are placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the

general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petitions by any or all of Bock, Amico, and Sberna in this or any other application to the Office of Enrollment and Discipline for appropriate action.

Any questions concerning this matter by Mr. Ishikawa may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Joel N. Bock
Sonnenschein Nath & Rosenthal LLP
P O Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of	:
Hiroshi Ishikawa	: SUBSTITUTE
Application No. 10/492,722	: DECISION ON PETITION
Filed: April 15, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. N010809US	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 2005, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner, Joel N. Bock (Bock), requests withdrawal of this application from issue on behalf of John Amico and Carmelo Sberna, who are styled as the two joint inventors of this application to the exclusion of the currently named sole inventor, for the purpose of filing a Request for Continued Examination (RCE) to have the Office consider an Information Disclosure Statement.

This application was filed on April 15, 2004 with an executed declaration signed by sole inventor Hiroshi Ishikawa and directing that all correspondence in this application be directed to Davi Geiger (who is not a registered practitioner before the USPTO) at the above address.

On August 4, 2005, registered practitioner Bock filed a petition under 37 CFR 1.48(a) to add inventors John Amico and Carmelo Sberna in this application. The petition is accompanied by statements from both John Amico and Carmelo Sberna stating how the error in failing to name the correct inventors without deceptive intent occurred. Additionally, the petition is accompanied by an executed declaration by John Amico and Carmelo Sberna, which additionally appoints petitioner (with Customer Number 26263) herein as their attorney.

37 CFR 1.48(a) requires the following as a condition for accepting correction of inventorship in an application:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter. [Emphasis supplied.]

The petition under 37 CFR 1.48(a) lacks item (3) above. Petitioner's attention is directed to MPEP 201.03, subheading "Oath or Declaration," which states, in part:

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity.

Additionally, whether there is an assignee *vel non* is unresolved.

Since the petition under 37 CFR 1.48(a) is **facially** not grantable, the power of attorney set forth in the executed oath by inventors John Amico and Carmelo Sberna is not acceptable. As such, the petition under 37 CFR 1.313(c)(2) is considered to not have been submitted by a proper party to this proceeding. Indeed, Bock does not aver, and it is likewise not apparent, that Bock is acting in even a representational capacity with respect to the interest of Ishikawa. That is, Ishikawa, as the current sole inventor, has an undivided 100% property right in this application. Ishikawa will be presumed to be the owner of the entire interest, as there is no evidence supplied by petitioner that Ishikawa has further conveyed his interest, in whole or in part, to another party. See 37 CFR 3.73(a). Ishikawa, as the only named inventor, has a property right in this application that can be canceled, revoked, or annulled only by proceedings that afford due process of law. Iowa State University Research Foundation v. Sperry Rand Corp., 444 F.2d. 406, 410, 170 USPQ

374, 377 (4th Cir. 1971). An *ex parte* proceeding in the USPTO is not the appropriate forum for the possible extinction of a property right in an application. See Baker Hughes, Inc. v. Kirk, 921 F.Supp. 801 (D.D.C. 1995). Rather, it is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Petitioner will not be permitted to unilaterally, and in an *ex parte* manner, diminish Ishikawa's property right herein.

Indeed petitioner has not shown, nor is it apparent, that he has any standing herein. Rather, the express language of 37 CFR 1.313 is directed only to the Office and to the applicant. Bock, Amico, and Sberna are advised that the Court of Appeals for the Federal Circuit (Federal Circuit) has refused to accord standing to third parties challenging Office actions (outside of the an interference) during the prosecution of an application for patent. See Animal Legal Defense Fund v.Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 ("We find nothing in the law which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. A third party has no right to intervene in the prosecution of a particular patent application to prevent the issuance of an allegedly invalid patent"). The Office has promulgated regulations permitting third parties to file protests and petitions for public use proceedings in applications that have not been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.291 and 1.292) and to file prior art submissions in applications that have been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.99). The rules of practice, however, do not permit a third party to petition the Office to withdraw an application from issue. That the Office does permit a third party to file certain papers in an application does not afford a third party with standing to challenge Office decisions in that application. Cf. Boeing Co. v. Commissioner of Patents and Trademarks, 853 F.2d 878, 881, 7 USPQ2d 1487, 1489 (Fed. Cir. 1988)(that a third party is permitted to participate in district court action concerning a reexamination proceeding does not imply that the third party has standing to appeal a district court decision favorable to patent owner).

Lastly, Bock, Amico, and Sberna are placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petitions by any or all of Bock, Amico, and Sberna in this application to the Office of Enrollment and Discipline for appropriate action.

Any questions concerning this matter by Mr. Ishikawa may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Joel N. Bock
Sonnenschein Nath & Rosenthal LLP
P O Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

03 AUG 2004

#2

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John C. Holman
JACOBSON HOLMAN PLLC
400 7th Street, N.W., Suite 600
Washington, DC 20004

In re Application of	:	
Emilio ROMERO CARCASONA *et al*	:	
PCT No.: PCT/ES02/00489	:	
Int. Filing Date: 16 October 2002	:	
Priority Date: 16 October 2001	:	**DECISION**
Attorney Docket No.: P69667US0	:	
For: CHEWING GUM OR SOFT CARAMEL AND THE PRODUCTION METHOD THEREOF	:	

This decision is in response to petitioner's "Request for Refund" filed on 30 July 2004.

A national stage case was filed for PCT/ES02/00489 on 15 April 2004. These papers were processed by the USPTO and given a U.S. Application number.

Petitioner filed duplicate papers to enter the national stage for PCT/ES02/00489 on 16 April 2004. The duplicate papers included authorization to charge fees to a credit card in the amount of $1,210.00. Filing a duplicate application under 35 U.S.C. 371 is not possible since only one national stage application may be filed for an international application. Accordingly, a U.S. application number was not assigned for the duplicate papers. However, the $1,210.00 in fees were charged.

After receiving a call from the Office of PCT Legal Administration, petitioner submitted a request for a refund of the $1,210.00 paid in fees for the second national stage application. Petitioner's request for refund is hereby **GRANTED**.

The $1,210.00 in fees has been credited to petitioner's credit card account. The USPTO is unable to deposit this money directly in petitioner's Deposit Account since the fees were paid by credit card.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

27 JUL 2004

#5

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Teresan W. Gilbert
The Lubrizol Corporation
Patent Dept-Mail Drop 022B
29400 Lakeland Boulevard
Wickliffe OH 44092-2298

In re Application of	:	
Daniel T. Daly et al	:	
Application No.: 10/492731	:	
PCT Application No.: PCT/US02/06110	:	DECISION ON
International Filing Date: 28 February 2002	:	
Priority Date: 28 February 2001	:	PETITION UNDER
Attorney Docket No.: 3162-01	:	
For: Combustion Modifiers for Water-Blended Fuels	:	37 CFR 1.137 (b)

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 25 March 2004, to revive the above identified application.

BACKGROUND

On 28 February 2002, applicant filed international application number PCT/US02/06110 which claimed priority to an earlier filed United States provisional application 60/317,205 filed on 05 September 2001, also to an earlier filed United States provisional application 60/317,222 filed on 05 September 2001 and also to an earlier filed United States provisional application 60/272,209 filed on 28 February 2001. The period for paying the basic national fee is thus 30 months and ended at midnight on 28 August 2003.

On Midnight 28 August 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 25 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).

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 25 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 (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 a declaration and surcharge of $130 for furnishing the oath or declaration in more than 30 months from earliest priority date.

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

CONCLUSION

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

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

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Detailee
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Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
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HOUSTON TX 77252-2463

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Betting, et al.	:	
Application No. 10/492,734	:	ON PETITION
Filed: March 26, 2004	:	
Attorney Docket No. TS6312 US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 2, 2007.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed October 2, 2006, which set a period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on January 3, 2007. A Notice of Abandonment was mailed on April 30, 2007.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 1723 for consideration of the Amendment filed July 2, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

#9

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Costa Mesa, CA 92628-1950

08 JAN 2007

In re Application of	:	
Martin et al.	:	
Application No.: 10/492,756	:	DECISION
PCT No.: PCT/US02/33576	:	
Int. Filing Date: 17 October 2002	:	ON
Priority Date: 17 October 2001	:	
Attorney Docket No.: 100325.0174US	:	PETITION
For: Improved Vessel Closures And Methods Therefor	:	

This is a decision on applicants' renewed petition to withdraw the holding of abandonment filed on 30 October 2006.

DISCUSSION

In a Decision mailed on 08 September 2006, the petition to withdraw the holding of abandonment filed on 15 June 2006 was dismissed, without prejudice, because

> As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971),* an adequate showing of non-receipt of papers mailed to applicant by the Office 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 records must also be referenced in petitioner's statement).
>
> ...
>
> Concerning requirement (3), the instant petition is not accompanied by copies of appropriate docket records showing where the case would have been docketed for response had the correspondence in question been received. Since requirement (3) has not been satisfied, it would not be appropriate to grant the request for withdrawal of the holding of abandonment at this time. As the application remains abandoned, it would not be appropriate to consider the merits of the renewed submission under 37 CFR 1.497(d) at this time.

In response, petitioner has provided "a screenshot of the calender where the deadline to respond to the Decision would have been entered." Inspection of this document reveals that it appears to list only information pertaining to the instant application. However, the required showing pertaining to the "docket record" is the record showing cases scheduled for response on the due date for the required reply - in other words, a docket "tickler sheet" listing all replies due

to be filed with the USPTO on 22 November 2004 (since 21 November 2004 was a Sunday). As explained at MPEP 711.03(c),

> 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.

Since petitioner has not provided such a docket record, it would not be appropriate to grant the requested relief on the basis of the present record.

It is noted that petitioner has also submitted a "Consent of Assignee To Change Inventorship," but treatment of the merits of the submission under 37 CFR 1.497(d) is being held in abeyance since this application presently remains in abandoned status.

CONCLUSION

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

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

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

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#11

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Costa Mesa, CA 92628-1950

14 MAR 2007

In re Application of	:	
Martin et al.	:	
Application No.: 10/492,756	:	DECISION
PCT No.: PCT/US02/33576	:	
Int. Filing Date: 17 October 2002	:	ON
Priority Date: 17 October 2001	:	
Attorney Docket No.: 100325.0174US	:	PETITION
For: Improved Vessel Closures And Methods Therefor	:	

This is a decision on applicants' renewed petition to withdraw the holding of abandonment filed on 07 March 2007.

DISCUSSION

Petition Under 37 CFR 1.181

In a Decision mailed on 08 January 2007, the petition to withdraw the holding of abandonment filed on 30 October 2006 was dismissed, without prejudice, because

> In response, petitioner has provided "a screenshot of the calender where the deadline to respond to the Decision would have been entered." Inspection of this document reveals that it appears to list only information pertaining to the instant application. However, the required showing pertaining to the "docket record" is the record showing cases scheduled for response on the due date for the required reply - in other words, a docket "tickler sheet" listing all replies due to be filed with the USPTO on 22 November 2004 (since 21 November 2004 was a Sunday). As explained at MPEP 711.03(c),
>
> > 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.
>
> Since petitioner has not provided such a docket record, it would not be appropriate to grant the requested relief on the basis of the present record.
>
> It is noted that petitioner has also submitted a "Consent of Assignee To Change Inventorship," but treatment of the merits of the submission under 37 CFR 1.497(d) is being held in abeyance since this application presently remains in abandoned status.

Petitioner has now provided a "Statement By Attorney Robert D. Fish" which explains in part that 'The attached CalTime tasks spreadsheet is a complete and accurate listing of all tasks calendared as deadlines between August 1, 2004 and November 30, 2004, which includes all responses that were due to be filed with the USPTO during that period." Petitioner has also furnished a copy of the records alluded to by Atty. Fish. These records satisfy the "docket records" requirement under MPEP 711.03(c). As such, it would now be appropriate to withdraw the holding of abandonment. Accordingly, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 18 April 2006 is hereby **VACATED**.

Submission Under 37 CFR 1.497(d)

In a Decision mailed on 21 September 2004, the declaration filed on 09 August 2004 was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding requirement (3), the published international application names Fluor Corporation as applicant for all designated States except the U.S. This suggests that Fluor Corporation may enjoy an interest in this application, but counsel has neither provided an appropriate consent of the assignee (and showing under 37 CFR 3.73(b)) nor provided an indication that this application has not been assigned. As such, requirement (3) has not been satisfied.
>
> The declaration filed on 09 August 2004 is defective for the additional reason that it is not clear whether all of the inventors signed a complete copy of the declaration. The second sheet of the declaration is marked as "Supplemental Sheet Page 1 of 1," but this does not take into account the third sheet of the declaration, which was signed by Mr. West. Nor is it clear that Mr. West signed a declaration naming all of the inventors in that he signed a copy of page 2 of 2 listing himself as the first/sole inventor.

In response, counsel has presented a "Consent Of Assignee To Change Inventorship (37 C.F.R. § 3.73(b))" signed on behalf of assignee Fluor Technologies Corporation by Lawrence N. Fisher in the capacity of "Secretary." The "Consent..." indicates that Fluor Technologies Corporation is "owner by assignment of the above application," and further indicates that the relevant assignment has been recorded in the USPTO at Reel 0177, Frame 0784. The "Consent..." further states that said assignee "hereby consents to the amendment of the inventorship of this patent as requested in the papers mailed to the PTO on August 3, 2004, a copy of which was mailed to the PTO on June 15, 2006, along with the Petition to Withdraw Holding of Abandonment." This "Consent..." satisfies the requirements of 37 CFR 1.497(d)(3) and 37 CFR 3.73(b).

Review of the executed declaration filed on 15 June 2006 reveals that it nominates the inventors named in the published international application as well as George T. West. Further inspection reveals the presence of un-initialed alterations to the respective cities of residence of George A. Miller, III, Leslie P. Antalffy and Michael B. Knowles. In view of these un-initialed alterations, it would not be appropriate to accept the declaration at this time.

CONCLUSION

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

The declaration filed on 15 June 2006 is **NOT ACCEPTED** under 37 CFR 1.497(d), 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. Failure to timely reply will result in **ABANDONMENT**.

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

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25 JUN 2007

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In re Application of	:	
Martin et al.	:	
Application No.: 10/492,756	:	
PCT No.: PCT/US02/33576	:	
Int. Filing Date: 17 October 2002	:	DECISION
Priority Date: 17 October 2001	:	
Attorney Docket No.: 100325.0174US	:	
For: Improved Vessel Closures And Methods Therefor	:	

This is a decision on applicants' renewed submission under 37 CFR 1.497(d) filed on 24 April 2007.

DISCUSSION

As a preliminary matter, it is noted that the instant submission has not been signed by a registered practitioner. The following discussion is limited to the merits of the declaration document which forms part of the submission.

In a Decision mailed on 14 March 2007, the declaration filed on 15 June 2006 was not accepted under 37 CFR 1.497(d), without prejudice, because

> Review of the executed declaration filed on 15 June 2006 reveals that it nominates the inventors named in the published international application as well as George T. West. Further inspection reveals the presence of un-initialed alterations to the respective cities of residence of George A. Miller, III, Leslie P. Antalffy and Michael B. Knowles. In view of these un-initialed alterations, it would not be appropriate to accept the declaration at this time.

The instant renewed submission includes a declaration document initialed by inventors Antalffy, Knowles and Miller. This declaration appears to be a copy of the declaration filed on 15 June 2006 which was subsequently initialed after having been signed previously. Applicants' attention is drawn to MPEP 602.01, which states in part that

> 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.

In view of the fact that the declaration appears to have been altered after being signed, it would not be appropriate to accept it under the policy described at MPEP 602.01.

CONCLUSION

The declaration filed on 24 April 2007 is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

Applicants are required to file a proper response (that is, a declaration compliant with 37 CFR 1.497(a) and (b)) within either (a) the period for response to the decision mailed on 14 March 2007, as extended under 37 CFR 1.136(a), or (b) **ONE (1) MONTH** from the mail date of this decision (***NOT*** extendable under 37 CFR 1.136(a)), whichever expires later. Failure to timely reply will result in **ABANDONMENT**.

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

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cc: Fish & Associates, P.C.
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In re Application of	:	
Martin et al.	:	
Application No.: 10/492,756	:	
PCT No.: PCT/US02/33576	:	
Int. Filing Date: 17 October 2002	:	DECISION
Priority Date: 17 October 2001	:	
Attorney Docket No.: 100325.0174US	:	
For: Improved Vessel Closures And Methods Therefor	:	

This is a decision on applicants' renewed submission under 37 CFR 1.497(d) filed on 20 July 2007.

DISCUSSION

In a Decision mailed on 25 June 2007, the renewed submission under 37 CFR 1.497(d) filed on 24 April 2007 was treated as follows:

> As a preliminary matter, it is noted that the instant submission has not been signed by a registered practitioner. The following discussion is limited to the merits of the declaration document which forms part of the submission.
>
> In a Decision mailed on 14 March 2007, the declaration filed on 15 June 2006 was not accepted under 37 CFR 1.497(d), without prejudice, because
>
> *Review of the executed declaration filed on 15 June 2006 reveals that it nominates the inventors named in the published international application as well as George T. West. Further inspection reveals the presence of un-initialed alterations to the respective cities of residence of George A. Miller, III; Leslie P. Antalffy and Michael B. Knowles. In view of these un-initialed alterations, it would not be appropriate to accept the declaration at this time.*
>
> The instant renewed submission includes a declaration document initialed by inventors Antalffy, Knowles and Miller. This declaration appears to be a copy of the declaration filed on 15 June 2006 which was subsequently initialed after having been signed previously. Applicants' attention is drawn to MPEP 602.01, which states in part that
>
> *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.*
>
> In view of the fact that the declaration appears to have been altered after being signed, it would not be appropriate to accept it under the policy described at MPEP 602.01.

In response, applicants have filed a declaration which is suitable for purposes of compliance with the requirements of 37 CFR 1.497(a), (b) and (d). As such, all of the requirements for relief under 37 CFR 1.497(d) are now present in the application file.

Applicants are advised that the correspondence address of record has not been changed to that of Fish & Associates, PC.

CONCLUSION

The declaration filed on 20 July 2007 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 **20 July 2007**.

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Office of PCT Legal Administration
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Fax: (571) 273-0459

cc: Fish & Associates, P.C.
2603 Main Street
Suite 1050
Irvine, CA 92614-6232

21 SEP 2004

#4

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Costa Mesa, CA 92628-1950

In re Application of	:	
Martin et al.	:	
Application No.: 10/492,756	:	DECISION
PCT No.: PCT/US02/33576	:	
Int. Filing Date: 17 October 2002	:	UNDER
Priority Date: 17 October 2001	:	
Attorney Docket No.: 100325.0174US	:	37 CFR 1.497(d)
For: Improved Vessel Closures And Methods Therefor	:	

This is a decision on applicants' "Amendment, Request And Fee... 37 C.F.R. § 1.48(a)" filed on 09 August 2004, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 17 October 2002, claimed a priority date of 17 October 2001, and designated the U.S. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 17 April 2004. On 13 April 2004, applicants filed *inter alia* the basic national fee.

On 15 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).

DISCUSSION

Counsel requests that the declaration filed on 09 August 2004 be accepted, and that the USPTO "add the following previously unnamed person as an inventor of this application: George T. West." The regulation which properly pertains to this situation is 37 CFR 1.497(d).

A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

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

Regarding requirement (2), the instant submission included authorization to charge the

required processing fee to counsel's Deposit Account.

Regarding requirement (3), the published international application names Fluor Corporation as applicant for all designated States except the U.S. This suggests that Fluor Corporation may enjoy an interest in this application, but counsel has neither provided an appropriate consent of the assignee (and showing under 37 CFR 3.73(b)) nor provided an indication that this application has not been assigned. As such, requirement (3) has not been satisfied.

The declaration filed on 09 August 2004 is defective for the additional reason that it is not clear whether all of the inventors signed a complete copy of the declaration. The second sheet of the declaration is marked as "Supplemental Sheet Page 1 of 1," but this does not take into account the third sheet of the declaration, which was signed by Mr. West. Nor is it clear that Mr. West signed a declaration naming all of the inventors in that he signed a copy of page 2 of 2 listing himself as the first/sole inventor.

CONCLUSION

The declaration filed on 09 August 2004 is **NOT ACCEPTED** under 37 CFR 1.497 (d).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

08 SEP 2006

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Robert D. Fish
Rutan & Tucker
P.O. Box 1950
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92628-1950

In re Application of	:	
Martin et al.	:	
Application No.: 10/492,756	:	DECISION
PCT No.: PCT/US02/33576	:	
Int. Filing Date: 17 October 2002	:	ON
Priority Date: 17 October 2001	:	
Attorney Docket No.: 100325.0174US	:	PETITION
For: Improved Vessel Closures And Methods Therefor	:	

This is a decision on applicants' "Petition To Withdraw Holding Of Abandonment..." filed on 15 June 2006.

DISCUSSION

In a Decision mailed on 21 September 2004, the declaration filed on 09 August 2004 was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding requirement (3), the published international application names Fluor Corporation as applicant for all designated States except the U.S. This suggests that Fluor Corporation may enjoy an interest in this application, but counsel has neither provided an appropriate consent of the assignee (and showing under 37 CFR 3.73(b)) nor provided an indication that this application has not been assigned. As such, requirement (3) has not been satisfied.
>
> The declaration filed on 09 August 2004 is defective for the additional reason that it is not clear whether all of the inventors signed a complete copy of the declaration. The second sheet of the declaration is marked as "Supplemental Sheet Page 1 of 1," but this does not take into account the third sheet of the declaration, which was signed by Mr. West. Nor is it clear that Mr. West signed a declaration naming all of the inventors in that he signed a copy of page 2 of 2 listing himself as the first/sole inventor.

The decision set a two-month extendable period for response. A Notification of Abandonment (Form PCT/DO/EO/909) mailed on 18 April 2006 indicated that this application had become abandoned for failure to timely reply to the Notification of Missing Requirements mailed on 15 June 2004. Counsel requests withdrawal of the holding of abandonment on the basis of alleged non-receipt of the Decision mailed on 21 September 2004.

As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971)*, an adequate showing of non-receipt of papers mailed to applicant by the Office 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 records must also be referenced in petitioner's statement).

Petitioner has satisfied requirements (1) and (2).

Concerning requirement (3), the instant petition is not accompanied by copies of appropriate docket records showing where the case would have been docketed for response had the correspondence in question been received. Since requirement (3) has not been satisfied, it would not be appropriate to grant the request for withdrawal of the holding of abandonment at this time. As the application remains abandoned, it would not be appropriate to consider the merits of the renewed submission under 37 CFR 1.497(d) at this time.

CONCLUSION

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

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

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
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2 7 DEC 2004

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FISHER, CHRISTEN & SABOL
1725 K Street, Suite 1108
Washington, DC 20006

In re Application of :
KASHIWADA, Seiji *et al* :
Application No.: 10/492,775 :
PCT No.: PCT/JP02/10734 :
Int. Filing Date: 16 October 2002 : **DECISION**
Priority Date: 17 October 2001 :
Attorney Docket No.: KATA-191 :
For: METAL OBJECT-COATING METHOD :
AND PRIMER COMPOSITION USED :
FOR THE SAME

This decision is in response to the "Petition Under 37 CFR 1.182 to Change Inventors Name" submitted on 27 October 2004 which is treated as a petition under 37 CFR 1.182.

BACKGROUND

On 27 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) must be provided.

On 30 September 2004, applicants filed a "Letter" advising the Office that one of the inventors had changed their name.

On 27 October 2004, applicants filed the instant petition which was accompanied by, *inter alia*, an executed declaration and a copy of a Japanese Family Registry with an accompanying certified English translation.

DISCUSSION

Petitioners included an executed declaration indicating that the second named joint inventor was Satori Kitawaga. The inventor is listed as Satori Siiba on the international publication. Petitioners claim that the name change is due to marriage and included a copy of the Japanese Family Registry with an accompanying certified English translation that indicates that one of the recorded persons in the registry is Satori KITAGAWA.

This is <u>not</u> sufficient to meet the requirements outlined in the Manual of Patent Examining Procedures (MPEP). Section 605.04(c), *Inventor Changes Name*, of the

MPEP states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Therefore, an affidavit signed by the inventor whose name has been changed is required to meet the requirements outlined above. Hence, the declaration is not yet in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

Applicants' petition under 37 CFR 1.182 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 1.182". 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 the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

22 MAR 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISHER, CHRISTEN & SABOL
1725 K Street, Suite 1108
Washington, DC 20006

In re Application of
KASHIWADA, Seiji *et al*
U.S. Application No.: 10/492,775
PCT No.: PCT/JP02/10734
Int. Filing Date: 16 October 2002
Priority Date: 17 October 2001
Attorney Docket No.: KATA-191
For: METAL OBJECT-COATING METHOD AND PRIMER COMPOSITION USED FOR THE SAME

DECISION ON RENEWED PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.182" to change the name of an inventor in the above-captioned application filed via facsimile on 15 March 2005.

BACKGROUND

On 09 December 2004, a decision dismissing applicants' petition under 37 CFR 1.497(d) to add an inventor in the above-captioned application was mailed. Applicants were given two months to respond with extensions of time available.

On 15 March 2005, applicants filed the renewed petition which was accompanied by, *inter alia*, a one-month extension and $120.00 fee, and an "Affidavit of Inventor."

DISCUSSION

As previously indicated, section 605.04(c) of the Manual of Patent Examining Procedure discusses changing the name of an inventor with a petition, and states in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

In the renewed petition, applicants included an affidavit signed by the inventor whose name has changed from Satomi SIIBA to Satomi KITAGAWA due to a marriage. The inventor signed the affidavit with both names. The petition fee had already been paid.

This is sufficient for a grantable petition.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of the inventor from Satomi Siiba to Satomi Kitagawa is hereby **GRANTED**.

The declaration filed 27 October 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 16 October 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 October 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

24 AUG 2004

#3

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DAVID J LEVY
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FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

In re Application of GAVIN, Brian Charles et al. Application No.: 10/492,780 PCT No.: PCT/GB02/04602 Int. Filing Date: 10 October 2002 Priority Date: 12 October 2001 Docket No.: PG4459USW For: PHARMACEUTICAL COMBINATIONS... TREATMENT OF ASTHMA	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 13 April 2004 is **GRANTED**.

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 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: (703) 305-0455
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ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE, CA 92612-1599

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OCT 28 2008
OFFICE OF PETITIONS

In re Application of :
Janel Birk :
Application No. 10/492,784 : ON PETITION
Filed: April 18, 2005 :
Attorney Docket No. 17947 US PCT (HEA) :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 29, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a reply to the non-final Office action mailed August 21, 2007.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Guy Cumberbatch 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.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3773, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 19, 2006

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/492788 Patent No.: 7,059,320 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: _____

Justine Yu — **SPE**

3771 — **Art Unit**

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SUITE 800
WASHINGTON, DC 20037

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MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Giovanni Grasso, et al.	:	
Application No. 10/492,791	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. Q81012	:	

This is a decision on the petition, filed October 23, 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 reply to the final Office action mailed February 22, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 11, 2006.

Petitioner asserts that the Office action dated February 22, 2006 was not received.

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 the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3729 for (1) withdrawing the holding of abandonment, (2) re-mailing the Office action of February 22, 2006 and (3) restarting the period for reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SUITE 800
WASHINGTON, DC 20037

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APR 11 2007

OFFICE OF PETITIONS

In re Application of :
Giovanni Grasso, et al. :
Application No. 10/492,791 : ON PETITION
Filed: April 16, 2004 :
Attorney Docket No. Q81012 :

CORRECTED DECISION

This is a decision in response to the petition, filed October 23, 2006, to withdraw the holding of abandonment under the provisions of 37 CFR 1.181. A supplement to the petition was filed on April 5, 2007.

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the final Office action mailed February 22, 2006. A Notice of Abandonment was mailed on October 11, 2006. In response, on October 23, 2006, the present petition was filed wherein petitioner argued that the Office Action mailed February 22, 2006 was not received. In support, petitioner submitted the docket records of where the non-received Office communication would have been entered, had it been received; however the records did not include a showing of where the Office action would have been docketed for a response. Consequently, the decision mailed March 29, 2007 was premature. On April 5, 2007, petitioner provided a list of all responses in the practitioner's office with the due date of May 22, 2006, in response to a request from the undersigned.

The petition, as supplemented, is sufficient to withdraw the holding of abandonment. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 3729 for (1) withdrawing the holding of abandonment, (2) re-mailing the Office action of February 22, 2006, and (3) restarting the period for reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

17 SEP 2004
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ALEXANDRIA, VA 22313-1450
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Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of	:	
Andersen et al.	:	
Application No. 10/492,796	:	DECISION ON
PCT No.: PCT/DE01/04556	:	
Int. Filing Date: 05 December 2001	:	PETITION UNDER
Priority Date: 11 December 2000	:	
Atty. Docket No.: 32860-000737/US	:	37 CFR 1.137(b)
For: Hybrid Ship Propulsion System	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 16 April 2004.

BACKGROUND

This international application was filed on 05 December 2001, claimed an earliest priority date of 11 December 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 20 June 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 11 June 2003. 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, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an executed oath or declaration of the inventors.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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901 NEW YORK AVENUE NW
WASHINGTON, DC 20001-4413

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Atsushi HAGIWARA, et al.	:	
Application No. 10/492,831	:	DECISION GRANTING PETITION
Filed: October 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **09299.0012**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 21, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 15, 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 Mr. Charles E. Van Horn 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 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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APR 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,625,948	:	DECISION ON REQUEST FOR
HAGIWARA et al.	:	RECONSIDERATION OF
Issue Date: December 1, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/492,831	:	NOTICE OF INTENT TO ISSUE
Filed: October 8, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 09299.0012	:	

This is a decision on the petition filed on February 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred ninety-five (395) days. This is also in response to the petition under 37 CFR 1.182 filed February 1, 2010, requesting expedited consideration of the present petition.

The petition under 37 CFR 1.182 requesting expedited consideration is **GRANTED**.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **two hundred seventy-six (276) days**.

In the present petition, patentee is correct that A delay is 427 days and that there is no overlap between A delay and B delay. However, patentee has calculated B delay and applicant delay incorrectly.

As to B delay, the calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of August 30, 2004, not August 28, 2004. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, August 30, 2004. Thus, B delay is 45 days (not 47 days), counting the number of days beginning on August 31, 2007, and ending on October 14, 2007, the day before the filing of the Request for Continued Examination (RCE). See 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.703(b)(1).

As to applicant delay, a review of the application history reveals additional grounds for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10) are warranted. Specifically, patentee submitted an Information Disclosure Statement (IDS) on June 11, 2008, after the mailing of the notice of allowance on May 16, 2008. A review of the IDS of June 11, 2008, reveals that it did not include a § 1.704(d) statement,[1] which is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10). The Office responded to the IDS on August 29, 2008. Accordingly, a period of reduction of 80 days will be entered.

Additionally, patentee should have been assessed a delay for the filing of the petition to withdraw from issue, RCE and the IDS on May 21, 2009, after the mailing of the notice of allowance on May 16, 2008 (and after payment of the issue fee on August 15, 2008). The Office mailed a response to the petition to withdraw from issue on May 22, 2009. Accordingly, the submission of the

---

[1] Pursuant to 37 CFR 1.704(d):

> 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.

petition to withdraw from issue after the mailing of the notice of allowance is a proper basis under 37 CFR 1.704(c)(10) for reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping. See 37 CFR 1.704(c).

On June 26, 2009, a notice of allowance was mailed in response to the RCE and IDS filed May 21, 2009. A review of the IDS filed May 21, 2009, reveals that it did not include a statement under 37 CFR 1.704(d). Thus, patentee failed to engage in reasonable efforts to conclude prosecution of the application.

Pursuant to 37 CFR 1.704(c)(10), a first period of reduction of 2 days should have been entered for the submission of the petition to withdraw from issue, counting the number of days beginning on the date the petition was filed, May 21, 2009, and ending on the mailing date of the response to the petition, May 22, 2009. Pursuant to 37 CFR 1.704(c)(10), a second period reduction of 37 should have been entered for the submission of the RCE and IDS, counting the number of days beginning on the date the RCE and IDS were filed, May 21, 2009, and ending on the mailing date of the notice of allowance in response to the RCE and IDS, June 26, 2009.

37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application … 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." The first period of reduction of 2 days pursuant to 37 CFR 1.704(c)(10) totally overlaps with the second period of reduction of 37 days. Thus, a single period of reduction of 37 days will be entered for these two periods of reduction. Therefore, applicant delay is 196 (79 + 80 + 37) days.

Accordingly, the patent term adjustment is 276 days (427 days of A delay + 45 days of B delay - 196 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer,

from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the required fee of $200.00 set forth in 37 CFR 1.18(e) and the $400.00 fee set forth in 37 CFR 1.17(f).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred seventy-six (276) days.**

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,625,948 B2

DATED: Dec. 1, 2009 **DRAFT**

INVENTOR(S): HAGIWARA 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 348 days

Delete the phrase "by 348 days" and insert – by 276 days--

Day : Monday
Date: 4/26/2010

PALM INTRANET

Time: 12:32:17

PTA Calculations for Application: 10/492831			
Application Filing Date:	10/08/2004	PTO Delay (PTO):	427
Issue Date of Patent:	12/01/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	79
Post-Issue Petitions:	0	Total PTA (days):	276
PTO Delay Adjustment:	-72		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
162	04/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	45		
161	04/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		37	
160	04/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		80	
155.5	11/11/2009	PTA 36 MONTHS			
155	12/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
154	10/19/2009	EXPORT TO FINAL DATA CAPTURE			
153	10/16/2009	DISPATCH TO FDC			
152	10/16/2009	DISPATCH TO FDC			
151	10/06/2009	ISSUE FEE PAYMENT VERIFIED			
150	10/06/2009	ISSUE FEE PAYMENT VERIFIED			
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145	09/22/2009	ISSUE REVISION COMPLETED			
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141	07/15/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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136	07/21/2009	DATE FORWARDED TO EXAMINER			
135	07/15/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
134	07/21/2009	DISPOSAL FOR A RCE / CPA / R129			

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130	06/26/2009	MAIL EXAMINER'S AMENDMENT			
129	06/26/2009	MAIL NOTICE OF ALLOWANCE			
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109	05/26/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
108	02/19/2009	EXPORT TO FINAL DATA CAPTURE			
107	02/18/2009	DISPATCH TO FDC			
106	02/18/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			

104	02/18/2009	WORKFLOW - QUERY REQUEST - FINISH			
103	02/13/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
102	02/12/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
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71	02/29/2008	SUPPLEMENTAL RESPONSE		79	65
70	02/29/2008	REFERENCE CAPTURE ON IDS			
69	02/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

67	02/29/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	01/23/2008	DATE FORWARDED TO EXAMINER			
65	12/12/2007	RESPONSE AFTER NON-FINAL ACTION			
62	11/30/2007	MAIL NON-FINAL REJECTION			
61	11/29/2007	NON-FINAL REJECTION			
60	10/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	10/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	11/19/2007	FINISHED INITIAL DATA CAPTURE			
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43	08/17/2007	DOCUMENT VERIFICATION			
42	08/17/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	08/16/2007	NOTICE OF ALLOWABILITY			
37	06/08/2007	DATE FORWARDED TO EXAMINER			
36	05/25/2007	RESPONSE AFTER NON-FINAL ACTION			
35	10/08/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	10/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	04/12/2007	MAIL NON-FINAL REJECTION			
32	04/09/2007	NON-FINAL REJECTION			
31	04/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
30	02/08/2007	DATE FORWARDED TO EXAMINER			
29	01/29/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
28	01/05/2007	MAIL RESTRICTION REQUIREMENT	393		11
27	12/29/2006	REQUIREMENT FOR RESTRICTION / ELECTION			

26	09/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
25	10/08/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
22	02/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	11/30/2004	CLEARED BY OIPE CSR			
20	11/30/2004	CLEARED BY OIPE CSR			
19	11/30/2004	CLEARED BY OIPE CSR			
18	11/27/2004	CLEARED BY OIPE CSR			
17	11/27/2004	CLEARED BY OIPE CSR			
16	11/27/2004	CLEARED BY OIPE CSR			
15	11/27/2004	CLEARED BY OIPE CSR			
14	11/27/2004	CLEARED BY OIPE CSR			
13	11/27/2004	CLEARED BY OIPE CSR			
12	11/27/2004	CLEARED BY OIPE CSR			
11	10/08/2004	371 COMPLETION DATE			
10	11/17/2004	APPLICATION DISPATCHED FROM OIPE			
9	11/17/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
8	10/08/2004	ADDITIONAL APPLICATION FILING FEES			
4	10/08/2004	INFORMATION DISCLOSURE STATEMENTS			
3	10/08/2004	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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MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,625,948	:	DECISION ON REQUEST FOR
HAGIWARA et al.	:	RECONSIDERATION OF
Issue Date: December 1, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/492,831	:	NOTICE OF INTENT TO ISSUE
Filed: October 8, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 09299.0012	:	

This is a decision on the petition filed on May 13, 2010, which is being treated as a renewed 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 three hundred fifty-six (356) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**. The term of the above-identified patent is extended or adjusted by **three hundred fifty-six (356) days**.

On February 1, 2010, patentee filed 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 three hundred ninety-five (395) days.

On April 26, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the

above-identified patent was extended or adjusted by two hundred seventy-six (276) days. The decision gave patentee one (1) month or thirty (30) days, whichever was longer, from the mail date of that decision to respond. No extensions of time were permitted under 37 CFR 1.136.

On May 13, 2010, patentee filed the present renewed petition under 37 CFR 1.705(d). Patentee requests the removal of the entry of 80 days of applicant delay, pursuant to 37 CFR 1.704(c)(10), for the filing of the Information Disclosure Statement (IDS) on June 11, 2008, after the mailing of the notice of allowance on May 16, 2008.

As previously stated in the decision of April 26, 2010, patentee submitted a IDS on June 11, 2008, after the mailing of the notice of allowance on May 16, 2008. A review of the IDS of June 11, 2008, revealed that it did not include a proper statement under 37 CFR 1.704(d),[1] which is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10). As the Office responded to the IDS on August 29, 2008, a period of reduction of 80 days was entered.

On May 13, 2010, patentee submitted a supplemental statement under 37 CFR 1.704(d) on renewed petition. Specifically, patent practitioner, Charles E. Van Horn, provided the required statement, certifying that with respect to the information disclosure statement filed on June 11, 2008, each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent

---

[1] Pursuant to 37 CFR 1.704(d):

> 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.

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. It is noted that Mr. Van Horn filed the IDS on July 11, 2008. Therefore, the reduction of 80 days is being removed.

Accordingly, the patent term adjustment is three hundred fifty-six (356) days.

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

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

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred fifty-six (356) days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,625,948 B2

DATED: Dec. 1, 2009 **DRAFT**

INVENTOR(S): HAGIWARA 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 348 days

Delete the phrase "by 348 days" and insert – by 356 days--

Day : Friday
Date: 5/14/2010

PALM INTRANET

Time: 12:57:14

PTA Calculations for Application: 10/492831			
Application Filing Date:	10/08/2004	PTO Delay (PTO):	427
Issue Date of Patent:	12/01/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	79
Post-Issue Petitions:	0	Total PTA (days):	356
PTO Delay Adjustment:	8		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
167	05/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	80		
163	04/26/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
162	04/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	45		
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155.5	11/11/2009	PTA 36 MONTHS			
155	12/01/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
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32	04/09/2007	NON-FINAL REJECTION			
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29	01/29/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
28	01/05/2007	MAIL RESTRICTION REQUIREMENT	393		11
27	12/29/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
26	09/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
25	10/08/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
22	02/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	11/30/2004	CLEARED BY OIPE CSR			
20	11/30/2004	CLEARED BY OIPE CSR			
19	11/30/2004	CLEARED BY OIPE CSR			
18	11/27/2004	CLEARED BY OIPE CSR			
17	11/27/2004	CLEARED BY OIPE CSR			
16	11/27/2004	CLEARED BY OIPE CSR			
15	11/27/2004	CLEARED BY OIPE CSR			
14	11/27/2004	CLEARED BY OIPE CSR			
13	11/27/2004	CLEARED BY OIPE CSR			
12	11/27/2004	CLEARED BY OIPE CSR			
11	10/08/2004	371 COMPLETION DATE			
10	11/17/2004	APPLICATION DISPATCHED FROM OIPE			
9	11/17/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
8	10/08/2004	ADDITIONAL APPLICATION FILING FEES			
4	10/08/2004	INFORMATION DISCLOSURE STATEMENTS			
3	10/08/2004	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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SEP 20 2005

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

In re Application of	:
Motohide Satoh et al	:
Serial No.: 10/492,833	: PETITION TO MAKE SPECIAL
Filed: October 15, 2004	:
Attorney Docket No.: 9299.0009-00	:

This is in response to applicants' petition filed February 18, 2005, and supplemental petition, filed August 11, 2005, 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 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

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

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OFFICE OF PETITIONS

In re Application of	:
Motohide Satoh et al	:
Application No. 10/492,833	: DECISION GRANTING PETITION
Filed: October 15, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09299.0009-00	:

This is a decision on the petition, filed June 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 5, 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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\June9\492833.wpd

---

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

02 SEP 2004

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The Firm of Karl F. Ross P.C.
5676 Riverdale Ave. Box 900
Riverdale (Bronx), NY 10471

In re Application of	:	DECISION ON
Hans-Joachim SMOLENSKI et al	:	
Application No.: 10/492,861	:	
PCT No.: PCT/EP02/08899	:	
Int. Filing Date: 09 August 2002	:	PETITION UNDER
Priority Date: 17 August 2001	:	
Attorney's Docket No.: 22877	:	
For: METHOD AND DEVICE FOR PRODUCING	:	
GYPSUM PLASTERBOARDS	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival For Unintentional Abandonment - 37 CFR 1.137(b)," filed on 14 April 2004.

BACKGROUND

On 09 August 2002, this international application was filed, claiming an earliest priority date of 17 August 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 17 February 2004.

On 14 April 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee and an executed declaration was filed at such time.

DISCUSSION

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

Applicant's statement that "patent application was unintentionally abandoned by failure t file the national-phase application papers within the term ending 17 February 2004" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3). Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and (4) under 37 CFR 1.137(b).

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**.

The required fee of $130.00 (the surcharge under 1.492(e) for late filing of the declaration) has been charged to Deposit Account No.: 18-2025 as authorized in the Record of Transmittal sheet submitted on 14 April 2004.

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 **14 April 2004.**

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

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OFFICE OF PETITIONS

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

In re Application of

Blake, et al.

Application No. 10/492,863

Filed: October 22, 2004

Attorney Docket No. 4970-5

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed January 2, 2009.

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

This application was held abandoned on September 18, 2008, after it was believed that no response was received to the final Office action mailed June 17, 2008. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on December 19, 2008, indicating that a reply to the notice was not received.

A review of the application file record did reveal that response to the final Office was filed on December 17, 2008, with a request for an extension of time within the third month. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 1600, GAU1641, for further processing, including processing of the Request for Continued Examination filed December 17, 2008.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney

09 SEP 2004

#9

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M. John Carson
Fulbright & Jaworski L.L.P.
865 South Figueroa
Twenty-Ninth Floor
Los Angeles, California 90017-2571

In re Application of	:	
FURCHHEIM, Bobo	:	
Application No.: 10/492,866	:	DECISION ON PETITION
PCT No.: PCT/DE02/03745	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 04 October 2002	:	
Priority Date: 11 October 2001	:	
Attorney Docket No.: LA-7562-101	:	
For: METHOD FOR LINKING ELEMENTS TO HOLLOW SHAFTS, PREFERABLY FOR PRODUCING CAMSHAFTS, AND RESULTING CAMSHAFT		

The petition to revive under 37 CFR 1.137(b) filed 15 April 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 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

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Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304

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OFFICE OF PETITIONS

In re Application of	:	
Franco Cimatti et al.	:	
Application No. 10/492,873	:	DECISION ON PETITION
Filed: January 14, 2005	:	
Attorney Docket No. ST 0102 PUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on March 23, 2007, which set a period for reply of three (3) months. Accordingly, the application became abandoned on June 26, 2007. A Notice of Abandonment was mailed on July 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The petitioner requested that the issue and publication fees be paid along with the filing of the petition on May 22, 2009. It should be noted that the issue and publication fees were paid on June 25, 2007. No additional issue fees are due. Accordingly the fees will be credited to petitioner's credit card.

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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Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304

Mail Date: 04/21/2010

Applicant	: Franco Cimatti	: DECISION ON REQUEST FOR
Patent Number	: 7578762	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,873	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **220** 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.

17 AUG 2004

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#3

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Jeffrey A. Pyle
WILLIAMS, MORGAN & AMERSON
10333 Richmond Suite 1100
Houston, TX 77042

In re Application of: LAWS, Robert, Montgomery, et al.	:	
U.S. Application No.: 10/492,874	:	DECISION ON PETITION TO
PCT No.: PCT/GB02/04244	:	REVIVE ABANDONED
International Filing Date: 18 September 2002	:	APPLICATION UNDER 37
Priority Date: 18 September 2001	:	CFR 1.137(b)
Attorney's Docket No.: 2088.005700	:	
For: DETERMINATION OF THE HEIGHT OF THE	:	
SURFACE OF A FLUID COLUMN	:	

The petition to revive under 37 CFR 1.137(b) filed 16 April 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 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 applicants' 16 April 2004 submission included a declaration executed by three of the four applicant/inventors. Because this declaration is not fully executed, it cannot be accepted under 37 CFR 1.497.

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 mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a fully executed declaration and payment of 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

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Bjorn G. Bjornsen	:	
Application No. 10/492,885	:	DECISION ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. 4548-005	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on January 23, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $405 filing fee and an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The Office acknowledges receipt of $525 for a three (3) month extension of time filed on January 23, 2008. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 1797 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

02 FEB 2005

#6

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Richard P. Berg, Esq.
c/o Ladas & Parry
5670 Wilshire Blvd., Suite 2100
Los Angeles, CA 90036-5679

In re Application of	:	
KIIVERI et al	:	
Application No.: 10/492, 886	:	
PCT No.: PCT/AU02/01417	:	
Int. Filing Date: 17 October 2002	:	DECISION
Priority Date: 17 October 2001	:	
Atty. Docket No.: B-5420PCT 621839-2	:	
For: METHOD AND APPARATUS FOR	:	
IDENTIFYING DIAGNOSTIC...	:	

This is a decision on applicants' request under 37 CFR 1.48(a) filed in the U.S. Patent and Trademark Office (USPTO) on 10 November 2004.

BACKGROUND

On 17 October 2002, applicants filed international application No. PCT/AU02/01417 which claimed a priority date of 17 October 2001, and which designated the United States. The application was filed naming two applicant/inventors for the United States.

The deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was to expire 30 months from the priority date, i.e. 17 April 2004.

On 16 April 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: the basic national fee.

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 that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 10 November 2004, applicants filed the present request that a third inventor, Mervyn Thomas, be added to the application. The request was accompanied by, inter alia: the requisite

processing fee, a statement by Mr. Thomas, a statement of assent by the assignee, and a declaration of the inventors.

DISCUSSION

In that the present application is a national stage application under 35 U.S.C. 371, the present request is properly treated under 37 CFR 1.497(d). Under 37 CFR 1.497(d) a request to add or delete an inventor 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); (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); and (4) Any new oath or declaration required by 37 CFR 1.497(f). Applicants have satisfied items (1), (2) and (4).

With regard to item (3), a review of the application file reveals that while applicants have submitted a statement of assent of the assignee, it has apparently not been accompanied by a copy of an assignment as indicated. Absent a copy of the assignment, or an indication where such has been recorded in the USPTO, item (3) cannot be said to have been satisfied and the request to add an inventor may not be properly granted at this time.

CONCLUSION

For the reasons above, the request is **DISMISSED** without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional 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 the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

24 MAR 200

#8

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Richard P. Berg, Esq.
c/o Ladas & Parry
5670 Wilshire Blvd., Suite 2100
Los Angeles, CA 90036-5679

In re Application of	:	
KIIVERI et al	:	
Application No.: 10/492,886	:	
PCT No.: PCT/AU02/01417	:	
Int. Filing Date: 17 October 2002	:	DECISION
Priority Date: 17 October 2001	:	
Atty. Docket No.: B-5420PCT 621839-2	:	
For: METHOD AND APPARATUS FOR	:	
IDENTIFYING DIAGNOSTIC...	:	

This is a decision on applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d)" filed in the U.S. Patent and Trademark Office (USPTO) on 15 February 2005, which requests that a third inventor, Mervyn Thomas, be added to the application. The request is **GRANTED** as discussed below.

On 02 February 2005, this office mailed a decision dismissing applicants initial request on the grounds that applicants had not provided a copy of the assignment document as required.

On 15 February 2005, applicants filed the present renewed request which was accompanied by, *inter alia*: a copy of an assignment document.

A review of the application file reveals that, with the filing of the copy of the assignment document, applicants have now satisfied the requirements under 37 CFR 1.497(d), and the declaration filed 10 November 2004, naming an additional inventor may now be accepted.

The application has an international filing date of 17 October 2002, under 35 U.S.C. 363, and a 35 U.S.C. 102(e) and 371(c)(1), (2), and (4) date of **10 November 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

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Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130

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OFFICE OF PETITIONS

In re Application of	:	
Pieter Cornelis Langeveld et al.	:	
Application No. 10/492,899	:	DECISION ON PETITION
Filed: April 15, 2004	:	TO WITHDRAW
Attorney Docket No. 246152021700	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 19, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon & Vanderhye, PC**
901 North Glebe Rd., 11th Floor
Arlington, VA 22203

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SAN DIEGO, CA 92130-2332

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OFFICE OF PETITIONS

In re Application of	:	
Pieter C. Langeveld, et al.	:	
Application No. 10/492,900	:	DECISION ON PETITION
Filed: April 15, 2004	:	TO WITHDRAW
Attorney Docket No. 246152021800	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 29, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas E. Ciotti 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 or the assignee of the entire interest 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). The power of attorney filed on September 29, 2006 does not include a proper chain of title or the reel and frame number on the statement under 3.73(b).

There are no pending office actions at this time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PIETER C. LANGEVELD
VENEZUELASTRAAT 55
2622 BP DELFT
THE NETHERLANDS

cc: MR. BRYAN H. DAVIDSON
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203-1808

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11TH FLOOR
ARLINGTON, VA 22203

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NOV 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Pieter C. Langeveld, et al.	:	
Application No. 10/492,900	:	DECISION ON REQUEST FOR
Filed: April 15, 2004	:	REVOCATION OF POWER
Attorney Docket No. 4662-376	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed September 29, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on September 29, 2006 does not include a proper chain of title or the reel and frame number on the statement under 3.73(b).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DMS IP ASSETS B.V.
HRT OVERLOON
6411 TE HEERLEN
NETHERLANDS

26 OCT 2004

#3

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Alex R. Suzas
Paul & Paul
2900 Two Thousand Market Street
Philadelphia, PA 191903

In re Application of
GOLUBEV et al.
Application No.: 10/493,902
PCT No.: PCT/RU01/00426
Int. Filing Date: 17 October 2001
Priority Date: None
Attorney Docket No.: DN 109-04
For: DEVICE FOR AROMATISING A GAS MEDIUM

DECISION

The above-identified application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 17 October 2001, applicants filed international application PCT/RU01/00426 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 23 May 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 international filing date, 19 April 2004. (17 April 2004 was a Saturday and 18 April 2004 was a Sunday.)

On 16 April 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 executed declaration; and a preliminary amendment.

On 19 August 2004, the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT UNDER 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(1)).

DISCUSSION

A review of the application file reveals that the above identified application is the United States national stage application of PCT/RU01/00426 which originally claimed a priority date of 16 November 2000. (The claim for priority was withdrawn under PCT Rule 90bis.3) Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the

United States was to expire 30 months from the international filing date, 17 April 2004, and thus the deadline for entry into the national stage of the United States was extended to expire 30 months from the international filing date, ie. 19 April 2004. On 16 April 2004, applicants filed the appropriate basic national fee. Therefore, the payment of the basic national fee was timely and the Notification of Abandonment was mailed in error.

CONCLUSION

For the reasons above, the Notification of Abandonment mailed 19 August 2004 is hereby **VACATED**. The holding of Abandonment is withdrawn.

The application has an international filing date of 17 October 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **16 April 2004**.

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

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Nicholas John Lea	: DECISION ON REQUEST FOR
Patent Number	: 7620581	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/492,903	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1114** 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

#7

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Eugene J.A. Gierczak
Miller Thompson LLP
20 Queen Street West, Suite 2500
Toronto, Ontario Canada M5H 3S1

In re Application of		
NEIL et al.	:	
U.S. Application No. 10/492,912	:	
PCT No.: PCT/CA02/01539	:	
Int. Filing Date: 16 October 2002	:	DECISION ON REQUEST
Priority Date: 16 October 2001	:	
Attorney Docket No.: 055549-0036	:	
For: PLASTIC FRAME ASSEMBLY FOR BEARING WEIGHT AND METHOD OF ASSEMBLY	:	

This decision is in response to applicants' communication filed 29 November 2004, which is being treated as a Petition under 37 CFR 1.497(d). The $130 petition fee will be charged to Deposit Account no. 50-2385.

BACKGROUND

On 16 October 2002, applicants filed international application PCT/CA02/01539 which claimed a priority date of 16 October 2001. The international application named Gary Neil; Miles Keller; Scott Billings; and Richard Scheps as applicants/inventors. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 April 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, 16 April 2004.

On 16 April 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 16 August 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 15 October 2004, applicants filed a declaration executed by: Gary Neil; Miles Keller; Scott Billings; Richard Scheps; and Mark Lekhter.

On 01 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the fifth inventor (Mark Lekhter) was not identified on the international application.

On 29 November 2004, applicants filed the present petition.

DISCUSSION

It is noted that a correction of inventorship under 37 CFR 1.48(a) is only available in nonprovisional applications. As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). In the instant case, the international application named Gary Neil; Miles Keller; Scott Billings; and Richard Scheps as applicants/inventors. Applicants request to add Mark Lekhter 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 (2) and (3). In order to satisfy item (1), applicants must submit a statement by Mark Lekhter that the error in inventorship occurred without any deceptive intention on his part. Further, in order to satisfy item (4), applicants are required to submit a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b).

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

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

03 JUN 2005

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Eugene J.A. Gierczak
Miller Thompson LLP
20 Queen Street West, Suite 2500
Toronto, Ontario Canada M5H 3S1

In re Application of		
NEIL et al.	:	
U.S. Application No. 10/492,912	:	
PCT No.: PCT/CA02/01539	:	
Int. Filing Date: 16 October 2002	:	DECISION ON REQUEST
Priority Date: 16 October 2001	:	
Attorney Docket No.: 055549-0036	:	
For: PLASTIC FRAME ASSEMBLY FOR BEARING WEIGHT AND METHOD OF ASSEMBLY	:	

This decision is in response to applicants' communication filed 11 March 2005, which is being treated as a Renewed Petition under 37 CFR 1.497(d).

BACKGROUND

On 16 October 2002, applicants filed international application PCT/CA02/01539 which claimed a priority date of 16 October 2001. The international application named Gary Neil; Miles Keller; Scott Billings; and Richard Scheps as applicants/inventors. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 April 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, 16 April 2004.

On 16 April 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 16 August 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 15 October 2004, applicants filed a declaration executed by: Gary Neil; Miles Keller; Scott Billings; Richard Scheps; and Mark Lekhter.

On 01 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the

declaration was defective because the fifth inventor (Mark Lekhter) was not identified on the international application.

On 29 November 2004, applicants filed a Petition under 37 CFR 1.497(d). The petition under 37 CFR 1.497(d) was dismissed in a decision dated 11 January 2005.

On 11 March 2005, applicants filed the present renewed petition.

DISCUSSION

In the instant case, the international application named Gary Neil; Miles Keller; Scott Billings; and Richard Scheps as applicants/inventors. Applicants request to add Mark Lekhter 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).

With the filing the present renewed request, applicants have satisfied items (1)- (4).

CONCLUSION

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

This application will be given an international application filing date of 16 October 2002 and a date of **15 October 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
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Office of PCT Legal Administration
Tel: (571) 272-3298
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02 AUG 2005

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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of	:	DECISION ON
AstraZeneca AB	:	
Application No.: 10/492,971	:	
PCT No.: PCT/SE02/01911	:	
Int. Filing Date: 18 October 2002	:	PETITION UNDER
Priority Date: 19 October 2001	:	
Attorney's Docket No.: 1103326-0763	:	
For: ROSUVASTATIN IN PRE DEMENTED	:	37 CFR 1.137(b)
STATES	:	

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 30 August 2004. The petition fee of $1,330.00 and the basic national fee of $1080.00 have been charged to Deposit Account No.: 27-1703 as indicated in the faxed filed on 30 August 2004.

BACKGROUND

On 18 October 2002, this international application was filed. A copy of the intentional application was transmitted on 24 April 2003 to the USPTO from the International Bureau. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 19 April 2004. This international application became abandoned with respect to the United States at midnight on 19 April 2004 for failure to pay the required basic national fee.

On 16 April 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. However, the basic national fee was not provided at such time.

On 20 August 2004, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 30 August 2004, applicants faxed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition 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); 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 having submitted 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.

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

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Paper No. None

WENDEROTH, LIND & PONACK, L.L.P.
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SUITE 800
WASHINGTON DC 20006-1021

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of :
Terufumi Iwaki et al. :
Application No. 10/492,973 :
Filed: April 16, 2004 :
Attorney Docket No.: 2004-0584A :
Title: FLAMEPROOFING AGENT FOR :
POLYESTER-BASED TEXTILE PRODUCT :
AND METHOD OF FLAMEPROOFING :

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

This is a decision on the petition filed on October 31, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed March 31, 2006, which set a shortened statutory period to reply of one month. No extensions of time under the provisions of 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on May 2, 2006. A Notice of abandonment was mailed on October 25, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

1 See MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Restriction Requirement of March 31, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Om P Surujballi, et al.	:	
Application No. 10/492,998	:	ON PETITION
Filed: April 19, 2004	:	
Attorney Docket No. 01-1667-B	:	

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

29 SEP 2004

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Marguerite Del Valle
Power Del Valle LLP
233 West 72 Street
New York, NY 10023

In re Application of	:	
Claessens	:	
Application No. 10/493,016	:	DECISION ON
PCT No.: PCT/CH01/00736	:	
Int. Filing Date: 20 December 2001	:	PETITION UNDER
Priority Date: 23 December 2000	:	
Atty. Docket No.: 203-801	:	37 CFR 1.137(b)
For: Child's Clock Indicator	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 16 April 2004.

BACKGROUND

This international application was filed on 20 December 2001, claimed an earliest priority date of 20 December 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 04 July 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 20 June 2003. 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 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.

Inspection of the declaration of the inventor filed on 16 April 2004 reveals that it is defective. The second page of the declaration appears to have been transmitted via facsimile machine (fax) whereas the first page does not. Thus, it is not clear whether the declaration as filed is a true copy of the declaration actually executed by the inventor. Counsel is required to provide a complete copy of the declaration the inventor actually signed.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration 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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POWER DEL VALLE LLP
233 WEST 72 STREET
NEW YORK, NY 10023

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DEC 1 0 2008

OFFICE OF PETITIONS

In re Application of :
CLAESSENS, Vincent :
Application No. 10/493,016 : DECISION ON PETITION
Filed: December 3, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **203.801** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). 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 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 3, 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)(II)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). The instant petition lacks item (1) a proper reply.

A review of the file record discloses that the RCE fee of $405 was submitted on February 1, 2008. Petitioner states that the submission of a Request for Continued Examination (RCE) was previously filed; however, no RCE was located in the above application.

The proposed reply required for consideration of a petition to revive this application must be a Notice Of Appeal (and appeal fee required under 37 CFR 1.17 (b)), and 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)(II)(A)(2).

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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233 WEST 72 STREET
NEW YORK, NY 10023

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of
Vincent **CLAESSENS**
Application No. 10/493,016
Filed: December 3, 2004
Attorney Docket No. **203.801**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 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 3, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A one month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2833 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

Copied from 10016216 on 02/09/2009

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of

Keith Meader

Application No. 10/493,019

Filed: January 4, 2005

Attorney Docket No. P08240US00/DEJ

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed December 23, 2008.

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

This application was held abandoned on September 3, 2008, after it was believed that no response was received to the final Office action mailed June 2, 2008. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on December 5, 2008, indicating that a reply to the notice was not received.

A review of the application file record did reveal that a response to the final Office action was filed on December 2, 2008, with a request for an extension of time within the third month. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 3600, GAU 3618, for further processing, including processing of the Request for Continued Examination filed December 2, 2008.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

14 JAN 2005

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Akerman Senterfitt
Esperante Building
222 Lakeview Avenue, Suite 400
West Palm Beach, FL 33402-3188

In re Application of	:	
Filippi et al.	:	
Application No. 10/493,036	:	
PCT No.: PCT/EP02/11026	:	
Int. Filing Date: 02 October 2002	:	DECISION
Priority Date: 19 October 2001	:	
Atty. Docket No.: 9526-36	:	
For: Method And Reactor For Carrying	:	
Out Chemical Reactions In Pseudo-	:	
Isothermal Conditions	:	

This is in response to the request for a corrected filing receipt filed on 13 September 2004.

BACKGROUND

This international application was filed on 02 October 2002, claimed an earliest priority date of 19 October 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 01 May 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 19 April 2004. On 19 April 2004, applicants filed, *inter alia*, the basic national fee.

On 01 September 2004, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to counsel, indicating that the "date of receipt of 35 U.S.C. 371(c)(1), (2) and (4) requirements" and the "date of completion of all 35 U.S.C. 371 requirements" was 19 April 2004. Also mailed on that date was an official filing receipt.

DISCUSSION

Petitioner requests that the filing receipt be corrected to reflect the spelling of the name of the third joint inventor as -- Mirco Tarozzo --, rather than "Miero Tarozzo" as indicated on the filing receipt mailed on 01 September 2004. Review of the application file reveals that the name of the third inventor as it appears in the published international application is "Tarozzo, Mirco," and this same spelling appears in the executed declaration of the inventors filed on 19 April 2004. On the basis of the information currently of record, it would be appropriate to grant applicants' request.

DECISION

The request is **GRANTED**.

A corrected filing receipt reflecting the correct spelling of the name of the third inventor as -- Mirco Tarozzo -- is being mailed.

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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MACPHERSON KWOK CHEN & HEID LLP
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SAN JOSE CA 95110

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OFFICE OF PETITIONS

In re Application of	:	
Kang et al.	:	
Application No. 10/493,038	:	ON PETITION
Filed: April 15, 2004	:	
Attorney Docket No. ABS-1520 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 25, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (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.

There is an outstanding Office action in the instant application mailed October 10, 2006. Failure to timely and properly reply will result in abandonment.

This matter is being referred to Technology Center 2800.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

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ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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In re Patent No. 7,345,088	:	DECISION ON REQUEST FOR
Green et al.	:	RECONSIDERATION OF
Issue Date: March 18, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/493,042	:	and
Filed: August 23, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 4-32199A	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(d)," filed April 16, 2008. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from one hundred thirty (130) days to one hundred eighty-four (184) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **GRANTED**.

On March 18, 2008, the above-identified application matured into U.S. Patent No. 7,345,088, with a revised Patent Term Adjustment of 130 days. The instant request for reconsideration filed April 16, 2008 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees assert entitlement to 184 days of patent term adjustment, considering entry of an additional period of adjustment for Office failure to issue the patent within three years of the date the national stage commenced under 35 U.S.C. §371(b).

Patentees' contention is well taken. A review of the record indicates that the three year failure to issue a patent calculation pursuant to 37 CFR 1.702(b) should have used the 35 U.S.C. 371(b) national stage commencement date of April 15, 2004 which would result in an adjustment of 338 days for examination delay.

However, as acknowledged by patentees, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the 284 days accorded pursuant to §1.702(a)(1) for Office delay during the pendency of the application overlaps with the 338 days pursuant to §1.703(b). Thus, at issuance, the patent was entitled to an additional period of adjustment for the 54 non-overlapping days for Office failure to issue the patent within three years.

In view thereof, the patent term adjustment indicated on the patent should be one hundred eighty-four (184) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred eighty-four (184) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,345,088 B2

DATED : **March 18, 2008** **DRAFT**

INVENTOR(S) : Green 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 130 days

Delete the phrase "by 130 days" and insert – by 184 days--

30 AUG 2004

#6

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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 King Street
Suite 105
Alexandria, VA 22314

In re Application of:	:	
PASZKOWSKI, Mariusz	:	
U.S. Application No.: 10/493,054	:	DECISION ON PETITION
PCT No.: PCT/PL02/00078	:	
International Filing Date: 29 October 2002	:	
Priority Date: 02 November 2001	:	
Attorney's Docket No.: 04057	:	
For: SUPERHYDROPHOBIC COATING	:	

This decision is issued in response to applicant's "Response To Notification Of Missing Requirements" filed 12 August 2004, treated herein as a petition under 37 CFR 1.181 to confirm the filing of a declaration on 28 April 2004. No petition fee is required.

BACKGROUND

On 29 October 2002, applicant filed international application PCT/PL02/00078 which claimed a priority date of 02 November 2001 and which designated the United States. On 08 May 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., 02 May 2004.

On 28 April 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.

On 02 August 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.

On 12 August 2004, applicant filed the response considered herein as a petition under 37 CFR 1.181. The petition asserts that on 28 April 2004, prior to the expiration of the thirty month deadline, applicant filed an executed declaration. Attached to the petition is a copy of the declaration, as well as a copy of a return postcard itemizing the materials filed by applicant to initiate this national stage application. The postcard indicates that a declaration is included, and it bears a USPTO receipt stamp dated 28 April 2004.

DISCUSSION

Based on applicant's statements in the present petition and the attached return postcard, it is concluded that the declaration attached to the present petition was originally filed on 28 April 2004 with the materials initiating this national stage application. The Notification Of Missing Requirements mailed 02 August 2004, based as it was on applicant's purported failure to timely file the declaration, is therefore appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The declaration attached to the present petition is considered to have been filed on 28 April 2004, prior to the expiration of thirty months from the priority date.

The Notification Of Missing Requirements mailed 02 August 2004 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 April 2004.

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

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/493,069	04/30/2004	Pierre Dutilleul	251657US41XPCT	5381

22850 7590 03/21/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
3679	

NOTIFICATION DATE	DELIVERY MODE
03/21/2008	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Lee L. Stepina
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of Pierre Dutilleul et al Application No. 10/493,069 Filed: April 30, 2004 Attorney Docket No.: 251657US41XPCT For: PREMIUM THREADED TUBULAR JOINT COMPRISING AT LEAST A THREADED ELEMENT WITH END LIP	DECISION ON PETITION REGARDING REQUEST TO CONSIDER INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR 1.181

This is in response to applicants' petition under 37 CFR 1.181 filed November 9, 2007 requesting that the Information Disclosure Statement (IDS) filed October 12, 2006 be considered.

The petition is **DISMISSED AS MOOT**.

A review of the file reveals that the IDS in question was considered by the examiner on December 14, 2006 and a copy of the form PTO-1449 was included with the Office action mailed on December 21, 2006. Unfortunately, while signing and dating the form, the examiner inadvertently neglected initialing adjacent the listed reference.

The record further reveals that applicants conducted a telephonic interview with the examiner on April 12, 2007 and filed an amendment on April 23, 2007 and a supplemental amendment on May 7, 2007 in response to the Office action mailed December 21, 2006. The filing of the instant petition brought this error to the attention of the examiner.

However, the inadvertent omission had already been brought to the examiner's attention during issue processing on November 5, 2007. The form PTO-1449 was then fully completed with the examiner's initials, signature and date on November 16, 2007 and the completed form PTO-1449 was mailed to applicants as part of a supplemental Notice of Allowability on December 31, 2007. The instant application published as United States Patent No. 7,334,821 on February 26, 2008.

In view of the above, applicants' petition is moot and is hereby dismissed.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

SNM/DS: 3/12/08

SM

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BASELL USA INC.
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OFFICE OF PETITIONS

In re Application of :
Satoru Ishigaki et al :
Application No. 10/493,089 : ON PETITION
Filed: April 19, 2004 :
Attorney Docket No. SA 6002(US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 21, 2006, which set a three-month shortened statutory period for reply. A three-month extension of time was obtained pursuant to the provisions of 37 CFR 1.136(a). As the reply filed October 19, 2006 did not *prima facie* place the application in condition for allowance, the date of abandonment of this application is October 22, 2006.

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

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

This application is being referred to Technology Center AU 1713 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.

Frances Hicks
Petitions Examiner
Office of Petitions

19 JUI 2004

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WASHINGTON, DC 20231
www.uspto.gov

Wright, Lindsey & Jennings LLP
200 West Capitol Avenue
Suite 2300
Little Rock, Arkansas 72201

In re Application of	:	
HARGIS, Billy et al	:	DECISION ON
Application No.: 10/493,091	:	
PCT No.: PCT/US02/41459	:	
Int. Filing Date: 19 DECEMBER 2002	:	REQUEST UNDER
Priority Date: 20 DECEMBER 2001	:	
Attorney's Docket No.: 8793-50174	:	
For: Defined Competitive Exclusion Cultures	:	37 CFR 1.497(d)
For Food Borne	:	

This is a decision on applicants' "STATEMENT OF ERROR WITHOUT DECEPTIVE INTENT ON THE PART OF INVENTOR OMITTED IN APPLICATION" filed on 20 April 2004, which is being treated under 37 CFR 1.497(d) naming additional inventors, Guillermo I. Tellez and Gerardo Nava, in the executed declaration.

BACKGROUND

On 19 December 2002, applicants filed international application No. PCT/US02/41459 designating the United States and claiming a priority date of 20 December 2001.

On 20 April 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, inter alia, the requisite basic national fee and an executed declaration.

In addition to the transmittal letter, applicants' filed, *inter alia*, a statement of additional inventors under 37 CFR. 1.497(d) that includes a seventh inventor, Guillermo I. Tellez and an eighth inventor, Gerardo Nava that were not included in the International Application PCT/US02/41459.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(I); and

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

A review of the application file reveals that applicants have satisfied items (1) - (3) under 37 CFR 1.497(d).

With respect to item (1), the statement submitted on 20 April 2004 by Guillermo I. Tellez and Gerardo Nava is sufficient because the statement states that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of $130.00 has been paid by check.

With respect to item (3), the Secretary of Agriculture and the Board of Trustees of the University of Arkansas, the assignees, consent to the correction of inventorship to Guillermo I. Tellez and Gerardo Nava as a joint inventors of the above application and they have filed the requisite papers establishing their right to take action under 37 CFR §3.73(b).

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **20 April 2004**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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32ND FLOOR
CHICAGO, IL 60606

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Om P Surujballi, et al.	:	
Application No. 10/493,095	:	ON PETITION
Filed: April 19, 2004	:	
Attorney Docket No. 01-1666-B	:	

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of
MATSUMOTO
Application No. 10/493,097
Filed: April 20, 2004
Attorney Docket No. 2004_0580A

DECISION
ON PETITION

This is a decision on the petition filed August 4, 2006 under 37 CFR 1.181(no fee) to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 3, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 4, 2006.

Petitioner apparently relies upon, but does not cite, Delgar, Inc. v. Schuyler, 172 USPQ 513 (D.D.C. 1971) in support of petitioner's contention that, in light of the showing of record bearing on counsel's non-receipt of the Office action, it is erroneous to hold that this application is abandoned.

Initially, there is no dispute that neither the issue nor publication fee was submitted within the period required by the Notice of Allowance of April 3, 2006. Therefore, this application is properly considered abandoned by operation of law (35 USC § 151 and § 133). It is petitioner's burden to demonstrate, as in Delgar, that petitioner did not receive the aforementioned Notice of Allowance, for a withdrawal of the holding of abandonment to be warranted.

A review of the written record indicates no irregularity in the mailing of the April 3, 2006 Notice of Allowance and Notice of Allowability (Notices), and in the absence of any irregularity there is a strong presumption that the Notices were properly mailed to counsel at the address of record. This presumption may be overcome by a showing that the Notices were not, in fact, received. The showing required to establish the failure to receive an Office communication must consist of:

(1) a first-hand statement from the practitioner stating that the Notices were not received by the practitioner,

(2) practitioner's attestation to the fact that a search of the file jacket and docket records indicates that the Notices were not received, and

(3) a copy of the docket record where the Notices would have been entered had it been received and docketed must be attached to and referenced in the practitioners' statement. See MPEP 711.03(c); 1156 *O.G.* 53 (November 16, 1993).

The petition satisfies the three above requirements. Practitioner, W. Douglas Hahm (Hahm), provided a statement that he did not receive the Notices mailed April 3, 2006. Hahm also attests to the fact that a search of the file jacket and docket records indicates that the Notices were not received, provides a copy of the docket record where the non-received Notices would have been entered had they been received and docketed, and references the copy of the docket record in Hahm's statement.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3721 for remailing of the April 3, 2006 Notices.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
BULLIN, et al.	:	
Application No. 10/493,115	:	DECISION ON PETITION
Filed: November 5, 2004	:	
Attorney Docket No. BEI015	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 14, 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 June 15, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $1500; 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 $1020 extension of time fee submitted with the petition on September 5, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 1621.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Dirk Fabritius	: DECISION ON REQUEST FOR
Patent Number	: 7588791	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/493,116	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **921** 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.

17 MAR 2005

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In re Application of	
TAYLOR, et al.	
U.S. Application No.: 10/493,117	DECISION ON PETITIONS
PCT No.: PCT/AU02/01427	
Int. Filing Date: 17 October 2002	UNDER 37 CFR 1.47(a)
Priority Date: 17 October 2001	
Attorney Docket No.: 4050.002000	37 CFR 1.497(d) AND
For: CYCLIC PEPTIDES AS G-PROTEIN-COUPLED	
RECEPTOR ANTAGONISTS	37 CFR 1.28

This decision is in response to the applicant's "Petition Under 37 C.F.R. § 1.47(a) And Comment Under 37 C.F.R. § 1.497(d)" filed 21 January 2005 and "Request For Refund of Improper Charge" filed 28 February 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 October 2002, applicant filed international application PCT/AU02/01427 which claimed priority to an earlier application filed 17 October 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 April 2004.

On 19 April 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 first preliminary amendment.

On 17 August 2004, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response.

On 15 January 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor David Fairlie, comments regarding the addition of Darren March and Michael Whitehouse as inventors pursuant to 37 CFR 1.497(d) and a petition for a three-month extension of time. With the filing of the petition for a three-month extension of time and payment of the appropriate extension fee the response is considered timely filed. The comments regarding the addition of inventors March and Whitehouse is being

construed as a petition pursuant to 37 CFR 1.497(d). As authorized, the petition fee will be charged to Deposit Account No.: 50-0786.

On 28 February 2005, applicant filed by facsimile a copy of a request for refund of improper charge and refund request regarding the claiming of small entity status.

DISCUSSION

I. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $130 petition fee required by 37 CFR 1.17(I); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant has satisfied items (1) and (3).

As to item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature...Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Applicant has provided a declaration of facts from Alan Scott accompanied by various exhibits as evidence of the joint inventor's refusal to execute the declaration. It appears that Dr. Fairlie has agreed to sign the declaration once it contained the correct inventive entities, specifically the addition of Darren March and Michael Whitehouse as inventors. The Scott declaration at item 22 states that a Mr. Harvey hand delivered the papers to Dr. Fairlie, yet applicant has not provided a statement from Mr. Harvey confirming this. Regarding the alleged refusal, item 23 merely states that, "Dr. Fairlie refused to sign the revised documents." Applicant has not provided any firsthand accounting of this alleged refusal. It is not possible to constitute the silence of the inventor as a refusal absent firsthand confirmation that the revised papers were in fact delivered to Dr. Fairlie.

Regarding Item (4), the accompanying declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor contains two pages numbered "3." One signed by inventor March and one by inventor Whitehouse. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath

or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

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

II. Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

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

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

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

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

Applicant has satisfied items (2) and (3).

Regarding Item (1), applicant has not submitted a statement from inventors March and Whitehouse avowing that the error in inventorship occurred without any deceptive intention on their respective parts.

As to Item (4), applicant has not provided a statement granting the consent of the assignee. Assignee is required to establish its ownership in accordance with 37 CFR 3.73 (See MPEP 201.03 and 324).

In light of the above, it is not possible to grant applicant's petition at this time.

III. Request For Refund as to Charges of 16 August 2004

Applicant seeks a refund of the charges of $290.00 (fee code 1616) and $1,908.00 (fee code 1615) pointing out that a preliminary amendment was filed 19 April 2004 and that there should be 18 claims in total, 3 independent and no multiple dependent claims. The remarks to the preliminary amendment states that "Amended claims 1-17, submitted in English, form the subject of the International Preliminary Examination Report (IPER; copy enclosed). Claims 1-17 form the IPER stage therefore form the basis for the amendments introduced herein." However, this

statement does not appear to be correct. An examination of the IPER shows 24 total claims. Box I.1 of the IPER shows for the claims page 79 as filed and pages 76-78 received on 16 October 2003. In addition, Box V.1 and 2 show 24 total claims. It appears that claims 18-24 were not canceled in applicant's Article 34 amendment nor were these claims canceled by applicant's preliminary amendment. Therefore, the charges were properly deducted from applicant's deposit account. Absent an amended IPER from the examining authority it is not possible to grant applicant's request for refunding of this charges.

IV. Request For Refund Pursuant to 37 CFR 1.28

37 CFR 1.28(a) states that a refund pursuant to § 1.26, based on establishment of small entity status, of a portion 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. Applicant's current filing references an earlier request for refund (Exhibit B). However, this exhibit was not included in the current filing. Without a clear indication of when the original request was filed it is not possible to grant applicant's request for a refund of $605.00 as to the claiming of small entity status.

CONCLUSION

For the reasons stated above, applicant's petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d) are **DISMISSED without prejudice**.

Applicant's requests for refund of the charges detailed above are **DENIED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a) and 37 CFR 1.497(d)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

Derek A. Putonen
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#14

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17 JAN 2006

Mark D. Moore, Ph.D.
Haynes and Boone, LLP
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In re Application of TAYLOR, et al. U.S. Application No.: 10/493,117 PCT No.: PCT/AU02/01427 Int. Filing Date: 17 October 2002 Priority Date: 17 October 2001 Attorney Docket No.: 36677.10 For: CYCLIC PEPTIDES AS G-PROTEIN-COUPLED RECEPTOR ANTAGONISTS	DECISION ON PETITIONS UNDER 37 CFR 1.181, 1.47(a) AND 1.497(d)

This decision is in response to applicant's "Response to Communication And Notice of Abandonment" filed on 22 December 2005 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment and accept the present copy of materials filed 24 October 2005 as timely filed. No petition fee is required.

BACKGROUND

On 17 March 2005, applicant was mailed a decision dismissing applicant's petitions under 37 CFR 1.47(a), 37 CFR 1.497(d) and request for refund. Applicant was afforded two months to file a proper reply and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 30 March 2005, applicant filed an unsigned communication.

On 14 April 2005, applicant was mailed a Communication accompanied by a courtesy copy of the 17 March 2005 decision.

On 19 April 2005, applicant filed an additional unsigned communication seeking a refund.

On 01 December 2005, applicant was mailed a communication informing applicant that the time period for responding to the decision mailed 17 March 2005 had expired.

On 22 December 2005, applicant filed the present petition under 37 CFR 1.181.

On 03 January 2006, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909).

DISCUSSION

I. Petition Under 37 CFR 1.181

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, title, application number and attorney docket number. The postcard is stamped "OIPE AP28 Patent & Trademark Office OCT 24 2005." The postcard details the contents of the present filing: Executed declarations; statements under 37 CFR 1.497(d); revocation of power of attorney and change of correspondence address; petition for five-month extension of time and fee transmittal letter. The postcard has not been annotated in any way to indicate that any of these papers were not received at the time of filing. The evidence is sufficient to establish that filing was received in the USPTO on 24 October 2005. Lastly, applicant has provided certification that the present filing is a true and complete copy of the papers originally filed 24 October 2005. As such, it is proper to **GRANT** applicant's petition at this time and accept the copies presently filed as a substitute for the originally filed papers.

An examination of the renewed petition finds that it contains certification under 37 CFR 1.8 that the papers were deposited for mailing on 17 October 2005. With that certification as well as the filing of the petition for a five-month extension of time and payment of the appropriate extension of time fee, the renewed petition is considered a timely response to the decision mailed March 17, 2005. As authorized the extension of time fee will be charged to deposit account no. 08-1394.

II. Renewed Petition Under 37 CFR 1.47(a)

Applicant has presently provided an executed declaration of the previously non-signing inventor, Mr. David Fairlie. In addition, the declarations are in compliance with 37 CFR 1.497(a)-(b). As such, the renewed petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

III. Renewed Petition Under 37 CFR 1.497(d)

A review of the renewed petition finds that applicant has provided signed statements from inventors March and Whitehouse, as well as, the assignee that the omission of the inventors from the originally filed international application was in error and without deceptive intent. Thus, applicant has addressed all of the concerns raised in the decision mailed 17 March 2005 and it is proper to **GRANT** applicant's renewed petition under 37 CFR 1.497(d) at this time.

CONCLUSION

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

Applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

Applicant's renewed petition under 37 CFR 1.497(d) is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 03 January 2006 is hereby **VACATED**.

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 17 October 2002 under 35 U.S.C. 363 and will be given a date of **24 October 2005** 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
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OFFICE OF PETITIONS

In re Application of	:	
Masakatsu Suda	:	
Application No. 10/493,130	:	ON PETITION
Filed: April 16, 2004	:	
Attorney Docket No. HEIWA.012AUS	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 10, 2008.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed June 9, 2008. This Notice set a statutory period for reply of three (3) months. No drawings been received, the application became abandoned on September 10, 2008. A Notice of Abandonment was mailed on October 2, 2008.

Petitioner states that he did timely file corrected drawings. In support thereof, petitioner has included a copy of a transmittal letter, itemizing five sheets of replacement drawings, and made timely by including a Certificate of Mailing under 37 CFR 1.8 dated July 25, 2008.

The application is being forwarded to the Office of Data Management for processing into a patent, using the drawings submitted with the instant petition (Certificate of Mailing dated July 25, 2008).

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

United States Patent and Trademark Office

28 SEP 2006

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In re Application of	:	
Wright et al.	:	
Application No. 10/493,136	:	
PCT No.: PCT/EP02/10651	:	
Int. Filing Date: 23 October 2002	:	COMMUNICATION
Priority Date: 23 October 2001	:	
Atty. Docket No.: KEL01 P-131	:	
For: A Cover For The Head	:	
Of A Golf Club	:	

This is in response to the declaration of the inventors filed on 20 December 2004, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 23 October 2002, claimed an earliest priority date of 23 October 2001, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 01 May 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 23 April 2004. Applicants filed, *inter alia*, the basic national fee on 20 April 2004.

On 23 August 2004, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants.

On 20 September 2004, a Withdrawal of Previously Sent Notice was mailed to applicants, withdrawing the erroneously issued Notice of Acceptance mailed on 23 August 2004. On the same date, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e). It was noted that the "Signature of heiress for deceased inventror is omitted."

DISCUSSION

Review of the declaration of the inventors filed on 20 December 2004 reveals that joint inventor Jack Kyle is indicated to be "deceased" and that Gail Kyle has signed on his behalf. 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 filed on 20 December 2004 reveals that Gail Kyle is signing in the capacity of "Legal Representative," and that the declaration identifies her citizenship, residence and postal address. However, it does not provide "the facts which the inventor would have been required to state" in that Jack Kyle's citizenship, residence and mailing address information is not listed. As such, the declaration does not comply with 37 CFR 1.497(b)(2). Accordingly, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, 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 Submission Under 37 CFR 1.42." 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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0 2 MAR 2007

In re Application of
Wright et al.
Application No. 10/493,136
PCT No.: PCT/EP02/10651
Int. Filing Date: 23 October 2002
Priority Date: 23 October 2001
Atty. Docket No.: KEL01 P-131
For: A Cover For The Head Of A Golf Club

COMMUNICATION

This is in response to the renewed submission under 37 CFR 1.42 filed on 28 November 2006.

DISCUSSION

In a Decision mailed on 28 September 2006, the declaration filed on 20 December 2004 was not accepted under 37 CFR 1.42, without prejudice, because

> Further examination of the declaration filed on 20 December 2004 reveals that Gail Kyle is signing in the capacity of "Legal Representative," and that the declaration identifies her citizenship, residence and postal address. However, it does not provide "the facts which the inventor would have been required to state" in that Jack Kyle's citizenship, residence and mailing address information is not listed. As such, the declaration does not comply with 37 CFR 1.497(b)(2). Accordingly, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

In response, counsel has filed a newly executed declaration naming signed on behalf of Jack Kyle by Gail Kyle, in the capacity of "Legal Representative," and providing the citizenship, residence and mailing address for both Gail Kyle and Jack Kyle. The declaration also nominates, provides the citizenship, residence and mailing address for, and is executed by Carson Wright. Therefore, it would be appropriate to accept the declaration filed on 28 November 2006 under 37 CFR 1.42.

CONCLUSION

The declaration 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 **28 November 2006**.

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UNITED STATES PATENT AND TRADEMARK OFFICE

01 OCT 2008

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In re Application of	:
DICKENSHEETS, David L. et al.	:
Application No. 10/493,140	: DECISION ON PETITION
Filed: 21 October 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MONT-017/00US	:
306509-2045	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 12 June 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on 21 October 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/330,435, which was filed on 22 October 2001, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an

application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and a proper amendment (complying with 37 CFR 1.121) deleting the incorporation by reference statement, are required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

0 2 DEC 2008

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

COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

In re Application of	:
DICKENSHEETS, David L., et al.	:
Application No. 10/493,140	: DECISION ON PETITION
Filed: 21 October 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MONT-017/00US	:
306509-2045	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 15 October 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an

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

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

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

Any inquiries concerning this decision may be directed to Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1792 for appropriate action on the amendment submitted 15 October 2008, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/330,435.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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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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OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of	:	
Christopher C. Benz	:	
Application No. 10/493,141	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. 314-300200US	:	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 12, 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 Jonathan Alan Quine on behalf of all attorneys of record who are associated with customer No. 22798.

All attorneys/agents associated with the Customer Number 22798 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: CHRISTOPHER C. BENZ
40 WOODLEAF COURT
NOVATO, CA 94545

cc: BEYER WEAVER, LLP
500 12TH STREET
SUITE 200
OAKLAND, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/493,141	10/25/2004	Christopher C. Benz	314-300220US

CONFIRMATION NO. 8342

POWER OF ATTORNEY NOTICE

22798
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

OC000000030615568

Date Mailed: 06/23/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2007.

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

/amwise/

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

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United States Patent and Trademark Office
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Paper No. 7

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Tae-Hwan Ha	:	
Application No. 10/493,151	:	ON PETITION
Filed:	:	
Attorney Docket No. 11234-008-999	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 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 Notice to File Missing Parts of Application (Notice) mailed August 12, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 13, 2004.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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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ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017-5621

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OFFICE OF PETITIONS

In re Application of
Malcolm Robertson et al. :
Application No. 10/493,152 : ON PETITION
Filed: April 16, 2004 :
Attorney Docket No. 206,503 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed March 21, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed September 16, 2005. A shortened statutory period of three months was set for replying Final Office Action. No extensions of time having been filed, the application became abandoned December 17, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

In response to the Final Office Action mailed September 16, 2005, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 3617 for processing of the RCE and submission.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

02 JUN 2004

#3

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Richard S. Wesorick
Tarolli Sundheim
526 Superior Avenue, Suite 1111
Cleveland, Ohio 44114

In re Application of	:	
HUANG, et al.	:	DECISION ON PETITION
Application No.: 10/493,177	:	
PCT No.: PCT/US02/33294	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 18 October 2002	:	
Priority Date: 18 October 2001	:	
Atty. Docket No.: CCF-5947PCT/US	:	
For: SYSTEMS AND METHODS FOR ANALYSIS OF CORNEAL TOPOGRAPHY WITH CONVEXITY MAP	:	

The petition to revive under 37 CFR 1.137(b) filed 20 April 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. 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 18 October 2002 under 35 U.S.C. 363 and will be given a date of **20 April 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: (703) 305-0130
Fax: (703) 308-6459

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date : July 1, 2006

Patent No. :7,048,470
Inventor(s) : Stephans Anres
Issued :May 23, 2006
Title :A GUIDE DEVICE IN AN OFFSHORE DRILLING INSTALLATION

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

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

CBN/arg

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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OFFICE OF PETITIONS

In re Application of :
Gerd-Jurgen Weidner :
Application No. 10/493,196 :
Filed: April 19, 2004 :
Attorney Docket No. 04-238 :

ON PETITION

This is a decision on the petition filed October 30, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

In response to the Final Office Action mailed July 19, 2006, an amendment was filed on November 27, 2006 (November 20, 2006 certificate of mail date) with a one month extension of time. By Advisory Action mailed January 3, 2007, petitioners were advised that the amendment filed November 27, 2006 did not place the application in condition for allowance. In response thereof, a Notice of Appeal was filed January 22, 2007 with an authorization for an additional extension of time to make the Notice of Appeal timely, in response to the Final Office Action mailed July 19, 2006.

An Appeal Brief was therefore due not later than March 22, 2007 or by August 22, 2007 with a five month extension of time. No response thought to have been timely filed, a Notice of Abandonment was mailed July 27, 2007.

Petitioner asserts that an Appeal Brief was filed on July 23, 2007 with a four month extension of time request. In support, petitioner submits a copy of the reply said to have been filed.

A search of the application file and the USPTO records reveals that in fact, the Appeal Brief was timely filed on July 23, 2007.

Accordingly, the response was timely and the Notice of Abandonment mailed July 27, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This application is being forwarded to Technology Center 3722 for review of the Appeal Brief filed originally filed July 23, 2007, a copy of which was submitted with the instant petition.

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

19 MAY 2006

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ALEXANDRIA, VA 22313-1450
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INTERVET INC.
PATENT DEPARTMENT
PO BOX 318
MILLSBORO, DE 19966-0318

In re Application of VILLOING et al	:	
U.S. Application No.: 10/493,208	:	
PCT Application No.: PCT/EP02/11552	:	
Int. Filing Date: 16 October 2002	:	DECISION
Priority Date Claimed: 19 October 2001	:	
Attorney Docket No.: I 2001.012 US	:	
For: INFECTIOUS SALMON ANAEMIA VIRUS	:	
VACCINE	:	

This is in response to applicant's "Petition to the Director to Correct Filing Date Under 37 C.F.R. § 1.10(d) and § 1.181(a)(2)" filed 25 April 2006.

BACKGROUND

On 16 October 2002, applicant filed international application PCT/EP02/11552, which claimed priority of an earlier European Patent Office application filed 19 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 19 April 2004.

On 19 April 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail").

On 18 August 2004, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated that the application had a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 April 2004.

On 25 April 2006, applicant filed the present petition under 37 CFR 1.10(d).

DISCUSSION

37 CFR 1.10(d) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With regard to item (1) above, applicant is required to supply a more detailed explanation regarding the reasons why the present petition was filed over 20 months after the time applicant was notified of the accorded date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4).

With regard to item (2) above, a review of the transmittal letter and the Express Mail mailing label reveals that the Express Mail number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3) above, applicant must provide: (1) a showing that the correspondence was deposited in Express Mail prior to the last scheduled pickup on the date alleged and (2) corroborating evidence. Although the presented evidence (i.e. the copy of the USPS register receipt and copy of the electronic mail message sent by the USPS) is sufficient corroborating evidence, applicant has not made the required showing (e.g. an affidavit from the individual who personally deposited the correspondence) that the correspondence was deposited in Express Mail prior to the last scheduled pickup on the date alleged.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)".

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

06 SEP 2006

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INTERVET INC.
PATENT DEPARTMENT
PO BOX 318
MILLSBORO, DE 19966-0318

In re Application of VILLOING et al	:	
U.S. Application No.: 10/493,208	:	
PCT Application No.: PCT/EP02/11552	:	
Int. Filing Date: 16 October 2002	:	DECISION
Priority Date Claimed: 19 October 2001	:	
Attorney Docket No.: I 2001.012 US	:	
For: INFECTIOUS SALMON ANAEMIA VIRUS	:	
VACCINE	:	

This is in response to applicant's "Response to the Petition Decision and Reconsideration Request to Correct Filing Date Under 37 C.F.R. § 1.10(d) and § 1.181(a)(2)" filed 24 July 2006.

BACKGROUND

On 16 October 2002, applicant filed international application PCT/EP02/11552, which claimed priority of an earlier European Patent Office application filed 19 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 19 April 2004.

On 19 April 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail").

On 18 August 2004, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated that the application had a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 April 2004.

On 25 April 2006, applicant filed a petition under 37 CFR 1.10(d).

On 19 May 2006, this Office mailed a decision dismissing the 25 April 2006 petition.

On 24 July 2006, applicant filed the present renewed petition under 37 CFR 1.10(d).

DISCUSSION

37 CFR 1.10(d) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With regard to item (1) above, applicant's explanation for the delay in submitting the petition is accepted.

With regard to item (2) above, a review of the transmittal letter and the Express Mail mailing label reveals that the Express Mail number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3) above, the renewed petition provides a sufficient showing that the correspondence was deposited in Express Mail prior to the last scheduled pickup on the date alleged (see affidavit of Katrina Mears). Petitioner has previously supplied corroborating evidence from the USPS (i.e. the copy of the USPS register receipt and copy of the electronic mail message sent by the USPS). Thus, it can be concluded with reasonable certainty that the correspondence was deposited in Express Mail prior to the last scheduled pickup on 19 April 2004.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.10(d) is GRANTED.

The Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 18 August 2004 is hereby VACATED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a corrected Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which should indicate a date of 19 April 2004 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

10 MAY 2005

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

In re Application of	:	
MATUSCHEK, Markus et al.	:	DECISION ON
Application No.: 10/493,210	:	
PCT Application No.: PCT/EP02/11620	:	PETITION
International Filing Date: 17 October 2002	:	
Priority Date: 22 October 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 532622006800	:	
For: LIPASE VARIANTS	:	

This decision is in response to applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 14 March 2005.

BACKGROUND

On 17 October 2002, applicant filed international application PCT/EP02/11620. A copy of the international application was transmitted to the Office by the International Bureau on 01 March 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 22 April 2004.

On 21 April 2004, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee and a declaration.

On 06 August 2004, the Office mailed Notification to Comply with Requirements for Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922). The Notification set a two month period for reply.

On 05 November 2004, applicants filed a sequence listing.

On 08 December 2004, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916), indicating that the sequence listing did not comply with requirements and that the computer readable format was defective. The notification set a one month period for reply.

On 14 March 2005, applicants submitted "Response to Notification of Defective Response" and this petition to revive.

On 05 May 2005, applicants submitted a power of attorney.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (2), (3) and (4) have been satisfied. Applicants made the necessary statement, have supplied a compliant sequence listing and have paid the required fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

CONCLUSION

For the reasons listed above, the petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 21 April 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas Boren	:	
Application No. 10/493,220	:	ON PETITION
Filed: May 6, 2004	:	
Attorney Docket No. BORE3003/REF	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 13, 2007, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 14, 2008. The Notice of Abandonment was mailed March 28, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The divisional application 12/068,971 filed February 13, 2008 cannot serve as a reply to the Final Rejection. The divisional application 12/068,971 was filed before the application abandoned. Therefore, this application remains abandoned.

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

COPY MAILED
JAN 14 2010

In re Application of	:	
Thomas Boren	:	
Application No. 10/493,220	:	DECISION ON PETITION
Filed: May 6, 2004	:	
Attorney Docket No. BORE3003/REF	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 13, 2007, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 14, 2008. The Notice of Abandonment was mailed March 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 Notice of Appeal and fee, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1651 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

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

Ronal P. Kananen
RADER, FISHMAN & GRAUER PLLC
1233 20th street, N.W.
Suite 501
Washington, DC 20036

In re Application of	:	DECISION ON
Abe et al	:	
Application No.: 10/493,241	:	
PCT No.: PCT/JP01/09539	:	
Int. Filing Date: 31 October 2001	:	PETITION UNDER
Priority Date: NA	:	
Attorney Docket No.: Soh-0029	:	
For: POWER DETECTION CIRCUIT AND	:	
DEMODULATOR	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" received 26 January 2005, which is being treated as a petition under 37 CFR 1.181 requesting acceptance the national stage application without an English translation of pages 26-28 of the drawings. The $130.00 processing fee for a declaration filed after thirty months from priority date has been charged to Deposit Account No.: 18-0013 as requested in the petition.

BACKGROUND

On 21 April 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. However, the English translation of the international application submitted was incomplete since pages 26-28 of the drawings were not submitted at such time.

On 21 December 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 "the translation of the International Application is incomplete as a number of pages are missing, the translated pages of reference numbers that are pages 26-28 of drawing pages missing. The notice also indicated that the items above must be submitted within two (2) months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 12 December 2004, applicants submitted on 26 January 2005 the instant petition which included the an English translation of pages 26- 28 but requesting that the English translation of pages 26-28 of the drawings were not required under U.S. practice.

DISCUSSION

A review of the file shows that application submitted on 21 April 2004 was incomplete since pages 26-28 of the drawings were missing from the submitted file. Pursuant to PCT Rule 49.5, the pertinent part for this analysis indicates, "the translation of the international application shall contain the description, the claims, any text matter of the drawings and the abstract." In addition, 35 USC 371(c)(2) requires a copy of the international application ...and a translation into the English language of the international application, if it was filed in another language. In this case, pages 26-28 were part of the international application and therefore were required to be translated and submitted with the English translation of the international application in order to the meet the requirements under PCT and U.S. practice.

Accordingly, the date of receipt for the proper translation of the above application is 26 January 2005, which is the date that applicants satisfied the requirement under PCT Rule 49.5 and the requirements under 35 U.S.C.§ 371.

DECISION

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

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 **26 January 2005.**

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/493,241	01/26/2005	Masayoshi Abe	Soh-0029	8399

7590 02/07/2008
RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER
DSOUZA, JOSEPH FRANCIS A

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
02/07/2008	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.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

OCT 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Jochen Grimminger	:	
Application No. 10/493,250	:	DECISION ON PETITION
Filed: April 21, 2004	:	TO WITHDRAW
Attorney Docket No. 449122071500	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

31 AUG 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steinberg & Raskin PC
1140 Avenue of the Americas
15th Floor
New York, NY 10036-5803

In re Application of
CHMEISSANI, Mokhtar et al.
Application No.: 10/493,270
PCT No.: PCT/IB02/03100
Int. Filing Date: 23 July 2002
Priority Date: 21 August 2001
Docket No.: 932.1255
For: METHOD AND DEVICE FOR THE PRODUCTION OF DIGITAL IMAGES

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 21 April 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. The fee for submission of the declaration after thirty months will be charged to deposit account no. 50-0518, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 21 April 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070411

DATE : April 11, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,169,780

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:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: James O. Wilson Art Unit 1624

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Shu Lin	: DECISION ON REQUEST FOR
Patent Number	: 7596301	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/493,288	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1393** 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

DATE : 11/20/06

Paper No.: _____

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/493398 Patent No.: 6995700 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.

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

Comments: Claim 1 is more narrow than Previous Claim 1

Rexford Barme — SPE

2819 — Art Unit

CAC

OIPE
OCT 19 2006
PATENT & TRADEMARK OFFICE

Docket Number: **LLP120WOUS**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:

Inventor(s):	Frédéric Roger et al.	Art Unit:	2819
Patent No.:	6,995,700	Examiner:	Brian K. Young
Issue Date:	February 7, 2006	Serial No.:	10/493,298

Title: HIGH-RESOLUTION DIGITAL-TO-ANALOG CONVERTER

Certificate
OCT 23 2006
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 2231301450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO'S MISTAKE

Sir:

1. It is noted that errors appear in this patent of a clerical, typographical; and minor nature or character as more fully described below , in Appendix A, and occurred in good faith and correction thereof does not involve such changes in the patent as would constitute new matter or would require reexamination and a certificate of correction is requested.

2. Attached hereto is form PTO-1050 suitable for printing. The correct claims are in the Preliminary Amendment filed with the U.S. Patent and Trademark Office on April 21, 2004.

3. The exact pages and line numbers where the errors (or lack of error, in the event of a mistake by the Patent Office) occur in the application file are:

Column 7, line 55 through Column 10, line 31

4. **No fee is believed to be necessary.**

However, if the errors are found to be that of the Applicant's, please deduct the fee as required by 37 CFR 1.20(a), and please charge Deposit Account No. 50-1733 the sum of $100.00.

5. Attached hereto is Appendix A which sets for the reasons **Applicants believe that no fee is due.**

OCT 25 2006

6. Please send the Certificate to

Name: Thomas G. Eschweiler

Address Eschweiler & Associates, LLC
National City Bank Building
629 Euclid Avenue, Suite 1000
Cleveland, Ohio 44114

Date: October 16, 2006

Thomas G. Eschweiler
Reg. No. 36,981

ESCHWEILER & ASSOCIATES, LLC
National City Bank Building
629 Euclid Avenue, Suite 1000
Cleveland Ohio 44114
Telephone: (216) 502-0600
Facsimile: (216) 502-0601

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) 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: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: October 16, 2006

Christine Gillroy

OCT 2 5 2006

OIPE IAP28
OCT 19 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 6,995,700

Issued: February 7, 2006

Patentee: Frédéric Roger
Ralf-Rainer Schledz

Title: HIGH-RESOLUTION DIGITAL-TO-ANALOG CONVERTER

APPENDIX A

The above-captioned Letters Patent contains typographical errors made by the Patent Office. Specifically, the errors are as follows:

Column 7, line 55 through Column 10, line 31: Please replace all the claims.

These errors are typographical in nature and was committed by the Patent Office. Furthermore, correction of these errors do not require such changes in the patent as would constitute new matter or would require re-examination. Therefore, a certificate of correction is respectfully requested.

For this reason, it is believed that the revisions required by the Certificate of Correction are **due to errors made by the Patent Office**. As such, the Patentee is entitled to a Certificate of Correction under 37 C.F.R. §1.322, **and no fee is believed due.**

OCT 25 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. : 6,995,700

APPLICATION NO.: 10/493,298

ISSUE DATE : February 7, 2006

INVENTOR(S) : Frederic Roger and Ralf-Rainer Schledz

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

1. A digital/analog converter apparatus for the linear conversion of a digital input signal into an analog output signal, comprising:
at least two digital/analog converters,
a first unit which is connected upstream of the at least two digital/analog converters and is in a form such that it feeds inputs of the at least two digital/analog converters with digital intermediate signals based on the digital input signal, and such that the digital intermediate signals are within prescribed ranges, and
a second unit which is connected downstream of the at least two digital/analog converters and is a form such that it forms the analog output signal from a linear combination of analog intermediate signals which are outputs of the at least two digital/analog converters
wherein the first unit generates the digital intermediate signals through nonlinear digital signal processing of the digital input signal, and
wherein the first unit generates sawtooth-shaped digital intermediate signals using a threshold value detector.

2. The digital/analog converter apparatus as claimed in claim 1, wherein the at least two digital/analog converters have different gains or different resolutions or both different gains and different resolutions.

3. The digital/analog converter apparatus as claimed in claim 1, wherein the second unit, for each of the at least two digital/analog converters, comprises an amplifier for amplifying its analog intermediate signal, with the amplifiers having different gain factors.

4. The digital/analog converter apparatus as claimed in claim 3, wherein the second unit is in a form such that it forms a difference or a sum of the amplified analog intermediate signals.

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

Eschweiler & Associates LLC
National City Bank Building
629 Euclid Avenue, Suite 1000
Cleveland, Ohio 44114

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,995,700

APPLICATION NO.: 10/493,298

ISSUE DATE : February 7, 2006

INVENTOR(S) : Frederic Roger and Ralf-Rainer Schledz

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

5. The digital/analog converter apparatus as claimed in claim 2, wherein the ratio of the gains of two respective digital/analog converters is approximately an integer.

6. The digital/analog converter apparatus as claimed in claim 2, wherein the ratio of the gains of two respective digital/analog converters is approximately equal to one.

7. The digital/analog converter apparatus as claimed in claim 1, wherein the at least two digital/analog converters have different reference voltages.

8. The digital/analog converter apparatus as claimed in claim 1, wherein the at least two digital/analog converters comprise series-connected resistors, with the at least two digital/analog converters having different numbers of series-connected resistors.

9. The digital/analog converter apparatus as claimed in claim 1, wherein the at least two digital/analog converters comprise series-connected resistors and have a common resistor chain.

10. The digital/analog converter apparatus as claimed in claim 1, wherein the digital input signal has more significant bits and less significant bits, and
wherein the first unit generates each digital intermediate signal using a plurality of adders, the adders being designed such that a first digital intermediate signal is generated by adding the more significant bits to the less significant bits, and that a second digital intermediate signal is generated by adding the more significant bits to the inverted less significant bits.

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

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National City Bank Building
629 Euclid Avenue, Suite 1000
Cleveland, Ohio 44114

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,995,700

APPLICATION NO.: 10/493,298

ISSUE DATE : February 7, 2006

INVENTOR(S) : Frederic Roger and Ralf-Rainer Schledz

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

11. The digital/analog converter apparatus as claimed in claim 1, wherein the at least two digital/analog converters, the first unit and the second unit are integrated on a common substrate.

12. A method for the linear conversion of a digital input signal into an analog output signal, comprising:
(1) generating a first digital intermediate signal and a second digital intermediate signal through digital signal processing of the digital input signal, with the two digital intermediate signals being generated such that they are within prescribed ranges;
(2) subjecting the first digital intermediate signal to digital/analog conversion to give a first analog intermediate signal, and subjecting the second digital intermediate signal to digital/analog conversion to give a second analog intermediate signal; and
(3) generating the analog output signal from a linear combination of the two analog intermediate signals, wherein generating the two digital intermediate signals comprises generating through nonlinear digital signal processing of the digital input signal, and
wherein the two digital intermediate signals are sawtooth-shaped.

13. The method as claimed in claim 12, wherein the two digital intermediate signals are converted into the two analog intermediate signals using different gains or using different resolutions or different gains and different resolutions.

14. The method as claimed in claim 12, wherein method step (3) further comprises amplifying the two analog intermediate signals using different gain factors.

15. The method as claimed in claim 14, wherein method step (3) further comprises calculating a sum or a difference of the two amplified analog intermediate signals.

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OCT 25 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,995,700

APPLICATION NO.: 10/493,298

ISSUE DATE : February 7, 2006

INVENTOR(S) : Frederic Roger and Ralf-Rainer Schledz

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

16. The method as claimed in claim 13, wherein the ratio of the gains of the two digital intermediate signals during the digital/analog conversion is approximately an integer.

17. The method as claimed in claim 13, wherein the ratio of the gains of the two digital intermediate signals during the digital/analog conversion is approximately equal to one.

18. The method as claimed in claim 12, wherein the digital/analog conversion of the two digital intermediate signals is performed using different reference voltages.

19. The method as claimed in claim 12, wherein the digital/analog conversion of the two digital intermediate signals is performed using digital/analog converters comprising series-connected resistors and which have different numbers of the series-connected resistors.

20. The method as claimed in claim 12, wherein the digital/analog conversion of the two digital intermediate signals is performed using digital/analog converters comprising series-connected resistors and which have a common resistor chain.

21. The method as claimed in claim 12, wherein the digital input signal has more significant bits and less significant bits, and wherein each digital intermediate signal is generated using a plurality of adders, the adders being designed such that the first digital intermediate signal is generated by adding the more significant bits to the less significant bits, and that the second digital intermediate signal is generated by adding the more significant bits to the inverted less significant bits.

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DR. O. M. (SAM) ZAGHMOUT
BIO IPS
8509 KERNON STREET
LORTON, VA 22079

MAILED

OCT 0 2 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
PETERSON :
Application No. 10/493,303 :
Filed: April 30, 2004 :
Attorney Docket No. P1257 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 22, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 23, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the small entity petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 22, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6051-7099 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3724 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

Cc: DR. O. M. (SAM) ZAGHOUT
8509 Kernon Ct
Lorton, VA 22079

12 MAY 2005

#6

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J. Michael Strickland
GlaxoSmithKline, Inc.
Corporate Intellectual Property
Five Moore Drive, P.O. Box 13398
Research Triangle Park, NC 27709

In re Application of	:	
BONVOISIN, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/493,327	:	
PCT No.: PCT/GB02/04794	:	UNDER 37 CFR 1.181
Int. Filing Date: 23 October 2002	:	
Priority Date: 23 October 2001	:	
Atty Docket No.: PG4584USw	:	
For: MEDICAMENT DISPENSER	:	

This decision is in response to applicant's "Request to Have Notification of Abandonment Rescinded" filed 29 March 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 23 October 2002, applicant filed international application PCT/GB02/04794, which claimed priority of an earlier application filed 23 October 2001. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 April 2004.

On 21 April 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.

On 25 August 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 and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date.

01 March 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 25 August 2004.

On 29 March 2005, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment, indicating that a response to the Form PCT/DO/EO/905 was filed by facsimile transmission on 14 September 2004.

DISCUSSION

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicant's present filing satisfies all three items above. As such, it is proper to accept applicant's response of 29 March 2005 as a copy of the original faxed on 14 September 2004. Therefore, applicant has timely responded to the Form DO/EO/905 mailed 25 August 2004.

Further, a review of the application file reveals that the filed declaration complies with 37 CFR 1.497(a)-(b) and that applicant has authorized the charging of all appropriate fees to Deposit Account No.: 07-1392. 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. Regarding the assigning of a 35 U.S.C. 371 date, 37 CFR 1.8(a) states that, "[T]he actual date of receipt will be used for all other purposes." As such, the actual date of the receipt of the last 35 U.S.C. 371 requirement is 29 March 2005.

CONCLUSION

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

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 01

March 2005 is hereby **VACATED**.

This application will be given an international application filing date of 23 October 2002 and a date of **29 March 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

2 9 NOV 2004

#5

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COOPER & DUNHAM
1185 Avenue Of The Americas
New York, NY 10036

In re Application of: HAYASHI, Kotaro, et al. U.S. Application No.: 10/493,334 PCT No.: PCT/JP02/05227 International Filing Date: 29 May 2002 Priority Date: 22 October 2001 Attorney's Docket No.: 1248/72339 For: PRESSURE-SENSITIVE SENSOR AND MONITOR USING SAID PRESSURE-SENSITIVE SENSOR	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 15 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply, i.e. payment of the application filing fee, from the April 22, 2004 due date, 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 authorized a charge to Deposit Account No. 03-3125 for the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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

04 NOV 2004

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Daniel H. Bliss
BLISS McGLYNN, P.C.
2075 West Big Beaver Road, Suite 600
Troy, MI 48084

In re Application of	:	
MCCANDLISH, Jason Bruce *et al*	:	
U.S. Application No.: 10/493,335	:	**DECISION ON**
PCT No.: PCT/CA02/01602	:	**PETITION UNDER**
Int. Filing Date: 24 October 2002	:	**37 CFR 1.47(a)**
Priority Date: 24 October 2001	:	
Attorney Docket No.: 0201.00010	:	
For: CONTAINER CLOSURE	:	

This is a decision on applicants' "Petition . . . Under 37 C.F.R. 1.47(a)" ("Pet.") filed on 15 October 2004.

BACKGROUND

On 11 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/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $65.00 must be provided. Applicants were given two months to respond.

On 15 October 2004, applicants submitted a response which was accompanied by, *inter alia*, a declaration signed by one of the co-inventors; the instant petition under 37 CFR 1.47(a); an "Affidavit of Jason Bruce McCandlish" ("Decl."); a copy of a "Patent Assignment"; the $130.00 petition fee; and a $65.00 surcharge fee.

DISCUSSION

Petitioner claims that one of the two joint inventors, Kenneth Sheppard Albert Taylor cannot be located to sign the declaration in the above-captioned application. Hence, a petition under 37 CFR 1.47(a) was submitted with the instant response.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the nonsigning inventor refuses to execute the application or cannot be located; (3) a statement of the last known address of the nonsigning inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

With regard to item (3), the 37 CFR 1.47(a) applicant listed the last known address of the nonsigning inventor, Kenneth Albert Sheppard Taylor, as 39 Wigle Street, R.R. #2, Sault Ste. Marie, Ontario, Canada, P6A 5K7. This satisfies item (3).

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two joint inventors. Section 409.03(a)(A) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Both the inventors' names, residences, post office addresses and citizenship are typed on this declaration including the nonsigning co-inventor as required by 37 CFR 1.497(a) and (b). Therefore, item (4) of 37 CFR 1.47(a) is satisfied.

Regarding item (2), applicants provided a declaration by Jason McCandlish which outlines the steps taken to contact the nonsigning joint inventor. This included calling Mr. Taylor at his parents house on three separate occasions. He later declares that "since May 2002, I have attempted to reach Taylor on a number of occasions, both by telephone and by mail . . . On each occasion, I have been unable to reach Taylor in a timely manner. Occasionally, Taylor contacts me in response to an inquiry but his response is always slow in arriving, and often does not come at all." Decl. at ¶¶ 7-8.

This evidence is insufficient to meet item (2) of 37 CFR 1.47(a).

Applicants' burden in proving that an inventor cannot be located is explained in section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) which states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, 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 [in a] statement of facts. It is important that the statement contain facts as opposed to conclusions.

In this petition, the 37 CFR 1.47(a) applicant has only shown that Mr. McCandlish has attempted to contact Mr. Taylor three times by telephone regarding the above-captioned application. However, three telephone calls to the parents of the Mr. Taylor does not constitute a diligent effort. The 37 CFR 1.47(a) applicant must also attempt to contact Mr. Taylor by mail. A search of the internet may also be required to determine if Mr. Taylor had moved. These efforts are not extraordinary and should be made to establish that a diligent effort was made. Moreover, it is not clear if Mr. Taylor is on vacation and only temporarily unavailable. The 37 CFR 1.47(a) applicant should attempt to determine the answer to that question in their renewed petition. Copies of any documentary evidence such as copies of the letters mailed, postal receipts etc., must be submitted with any renewed petition.

For the reasons listed above, item (2) of 37 CFR 1.47(a) is not satisfied. Hence, it is <u>not</u> appropriate to accept this application under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

05 JUL 2005

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05 JUL 2005

Kenneth Albert Sheppard Taylor
39 Wigle Street, R.R. #2,
Sault Ste. Marie, Ontario,
Canada, P6A 5K7

In re Application of
MCCANDLISH, Jason Bruce *et al*
U.S. Application No.: 10/493,335
PCT No.: PCT/CA02/01602
Int. Filing Date: 24 October 2002
Priority Date: 24 October 2001
Attorney Docket No.: 0201.00010
For: CONTAINER CLOSURE

Dear Mr. Taylor:

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Daniel H. Bliss
BLISS McGLYNN, P.C.
2075 West Big Beaver Road, Suite 600
Troy, MI 48084

05 JUL 2005

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2075 West Big Beaver Road, Suite 600
Troy, MI 48084

In re Application of	:	
MCCANDLISH, Jason Bruce *et al*	:	
U.S. Application No.: 10/493,335	:	**DECISION ON**
PCT No.: PCT/CA02/01602	:	**RENEWED PETITION**
Int. Filing Date: 24 October 2002	:	**UNDER 37 CFR 1.47(a)**
Priority Date: 24 October 2001	:	
Attorney Docket No.: 0201.00010	:	
For: CONTAINER CLOSURE	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.47(a)" filed on 07 January 2005.

BACKGROUND

On 04 November 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 07 January 2005, applicants filed a renewed petition which was accompanied by, *inter alia*, a new declaration by Jason Bruce McCandlish and a declaration by Steven H. Leach.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to sign; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventor. Items (1), (3) and (4) of 37 CFR 1.47(a) were completed in the original petition.

In the renewed petition, the 37 CFR 1.47(a) applicants have included a detailed statement of facts by counsel and additional declarations by Mr. McAndlish and attorney Steven H. Leach discussing how they tried to contact the nonsigning joint inventor, Kenneth Taylor. A review of the evidence demonstrates that the 37 CFR 1.47(a) has made a diligent effort to locate and contact the nonsigning joint inventor. It appears that Mr. Taylor does not want to respond to the 37 CFR 1.47(a) applicant.

This evidence is sufficient to satisfy item (2) of 37 CFR 1.47(a).

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 October 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 15 October 2004.

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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ROBERT D. SHEDD
Thomson Licensing LLC
P O Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Shu Lin	: DECISION ON REQUEST FOR
Patent Number	: 7643724	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/493,349	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1428** 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.

18 NOV 2004

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Philippe Nobileau
2 avenue Fernand Martin
Villefranche sur Mer
FRANCE 06230

In re Application of	:	
NOBILEAU	:	DECISION ON
Application No.: 10/493,351	:	
PCT No.: PCT/FR02/03642	:	PETITION
Int. Filing Date: 23 October 2002	:	
Priority Date: 24 October 2001	:	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: None	:	
For: MULTISTRUCTURAL FLEXIBLE PIPE	:	
OF HIGH FLEXIBILITY	:	

The petition filed 29 September 2004 to revive under 37 CFR 1.137(b) the above-captioned application is hereby **GRANTED**.

BACKGROUND

On 23 October 2002, applicant filed international application PCT/FR02/03642, which claimed priority of an earlier French application filed 24 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 May 2003. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 May 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 April 2004.

On 22 April 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: $450.00 towards the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application as required by 35 U.S.C. 371(c)(2) and a declaration as required by 35 U.S.C. 371(c)(4).

On 07 September 2004, the United States Designated/Elected Office mailed a Notification of Abandonment under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/909).

On 29 September 2004, applicant filed the present petition to revive the application accompanied by $665 for the petition fee and $460.00 for the basic national fee.

DISCUSSION

While the papers submitted on 22 April 2004 were submitted before the end of the thirty-month period for paying the basic national fee, unfortunately the amount submitted was the incorrect amount. The correct amount was $460.00. Therefore, the international application became abandoned with respect to the United States at midnight on 23 April 2004 for failing to pay the full international fee. Accordingly, the mailing of the Notification of Abandonment was correct.

THE PETITION TO REVIVE UNDER 37 CFR 1.137(b)

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the applicant became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) by a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995. The small entity petition fee required by law is $665.

The required statement, the payment of the outstanding basic national fee, and the appropriate fee as required by 37 CFR 1.17(m) have been submitted. A terminal disclaimer is not required as the international application was filed after June 8, 1995.

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.

FEES

Applicant submitted on 29 September 2004 an authorization to charge to his credit card $665.00 for the petition fee and $460 for the basic national fee. Applicant had previously paid $450.00 for the basic national fee. Applicant authorized charging $460.00 for the basic national fee to his credit card. However applicant only needed to pay an additional $10.00 to pay in full the basic national fee. Accordingly the remaining $10.00 basic national fee and the $665.00 petition fee will be charged to applicant's credit card.

Applicant asked about an additional $260.00 payment on 15 April 2004 to the US PATENT/TRAD that showed on his bank balance. [It is noted that this payment was prior to the submission of the national stage papers for this application][1]. However, the $450.00 payment submitted on 22 April 2004 is the only payment associated with this application prior to the filing of the petition on 29 September 2004.

CONCLUSION

The claim for priority is acknowledged. The application will be given benefit of the claim for priority; an international filing date of 23 October 2002 under 35 U.S.C. 363; and a date of 29 September 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the National Stage Processing division for treatment in accordance with this decision.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

[1] It would appear that these charges were for the translations of international applications in national stage applications having consecutive serial numbers. Applicant spoke on or about November 16, 2004 with Anthony Smith from this Office concerning one of these cases.

20 MAY 2005

#6

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DOW CHEMICAL COMPANY
Intellectual Property Section
PO Box 1967
Midland, MI 48641-1967

In re Application of:	:	
MALIK, Navid, et al.	:	
U.S. Application No.: 10/493,354	:	DECISION ON PETITION
PCT No.: PCT/US01/48568	:	UNDER 37 CFR 1.47(a)
International Filing Date: 29 October 2001	:	
Priority Date: None	:	
Attorney's Docket No.: 60800C	:	
For: AN ANTINEOPLASTIC-DENDRITIC	:	
POLYMER DRUG DELIVERY SYSTEM	:	

This decision is issued in response to applicants' 22 March 2005 "Petition under 37 CFR 1.47(a)." Applicants will be charged the required petition fee.

BACKGROUND

On 29 October 2001, applicants filed international application PCT/US01/48568 which did not claim an earlier priority date and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 29 April 2004.

On 21 April 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 a declaration executed by three of the four inventors (but not by inventor Ruth DUNCAN). The submission also included a copy of a decision granting a petition under 37 CFR 1.47 with respect to inventor Duncan in a separate U.S. application, application number 10/016,733.

On 23 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that a fully executed declaration and the surcharge for filing the declaration later than thirty months after the priority date were required. The Notification stated that the 37 CFR 1.47 decision from the separate U.S. application was unacceptable in the present application.

On 22 March 2005, applicant filed the "Petition Under 37 CFR 1.47(a)" considered herein, with the required extension fee. This petition seeks acceptance of the previously filed declaration without the signature of Ruth DUNCAN, whom applicants assert has refused to execute the present application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

The petition here was accompanied by the authorization to charge Deposit Account No. 50-3384 required petition fee and includes a statement of the nonsigning inventor's last known address. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have previously filed a declaration executed by three of the four inventors and including an unsigned signature box identifying the nonsigning inventor (Ruth DUNCAN). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor has refused to execute the application. Under such circumstances, MPEP § 409.03(d) requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." The MPEP also states that "[i]f there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted." Here, the evidence submitted by applicants is contained in the declaration of Karen L. Kimble, and the attachments thereto. These materials provide firsthand evidence that the nonsigning inventor has been provided with a copy of the international application (a prerequisite to claiming a refusal to sign) and that the inventor has refused to provide the requested signature. This submission satisfies item (4) above.

Applicants have satisfied all the requirements of a grantable petition under 37 CFR 1.47(a). Accordingly, the petition is appropriately granted.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**. The declaration filed 21 April 2004 is accepted without the signature of nonsigning inventor Ruth DUNCAN.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the Petition, and 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 PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 April 2004.

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

20 MAY 2005

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Dr. Ruth DUNCAN
143B Chiltern Court
London, NW1 1AX
UNITED KINGDOM

In re Application of: MALIK, Navid, et al.
U.S. Application No.: 10/493,354
PCT No.: PCT/US01/48568
International Filing Date: 29 October 2001
Priority Date: None
Attorney's Docket No.: 60800C
For: AN ANTINEOPLASTIC-DENDRITIC POLYMER DRUG DELIVERY SYSTEM

Dear Dr. DUNCAN:

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

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

Richard M. Ross
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PCT Legal Office
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Counsel of Record:
Karen L. Kimble
DOW CHEMICAL COMPANY
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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Jean-Luc Dauvois	: DECISION ON REQUEST FOR
Patent Number	: 7600238	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/493,378	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **990** 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.

20 AUG 2004

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

In re Application of GRIESE et al. Application No.: 10/493,389 PCT No.: PCT/DE02/02507 Int. Filing Date: 08 July 2002 Priority Date: 06 July 2001 Attorney Docket No.: 449122073500 For: COUPLING TO WAVEGUIDES THAT ARE EMBEDDED IN PRINTED CIRCUIT BOARDS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 23 April 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.

The declaration as filed on 23 April 2004 is unacceptable as it does not comply with the requirement of 37 CFR 1.497(a)(3). The citizenship of inventor Walter Süllau was not provided.

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 a declaration, in compliance with 37 CFR 1.497(a) & (b), which states the citizenship of inventor Walter Süllau, is required.

Cynthia M. Kratz

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

Telephone: (703) 306-5467
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AUG 18 2005

Richard C Litman
Litman Law Offices
P O Box 15035
Crystal City Station
Arlington, VA 22215

In re Application of	:	
Jonnalagadda Raghunath Rao	:	
Serial No.: 10/493,398	:	PETITION TO MAKE SPECIAL
Filed: April 22, 2004	:	
Attorney Docket No.: 19878.01	:	

This is in response to applicant's petition filed on April 22, 2004, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant.

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

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

Should there by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

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SEP 28 2007

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Suren Solanki et al	:
Serial No.: 10/493,428	: PETITION DECISION
Filed: February 25, 2005	:
Attorney Docket No.: 0623.1230000	:

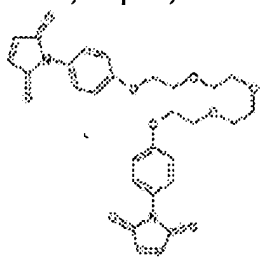
This is in response to the petition under 37 CFR 1.144, filed July 17, 2007, requesting withdrawal of an improper Lack of Unity requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on February 25, 2005, and contained claims 15-25, as amended. In a first Office action, mailed December 8, 2006, the examiner set forth a Lack of Unity requirement, as follows:

Group I, claims 15-21, in part, drawn to methods of use of compounds of Formula 1 wherein y is 1, x is 0 and A is CH_2;

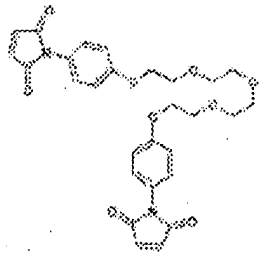
Group II, claims 15-21, in part, drawn to methods of use of compounds of Formula 1 wherein y is 1, x is 0 and A is CH_2CH_2;

Group III, claims 15-21, in part, drawn to methods of use of compounds of Formula 1 where the compound is  ;

Group IV, claims 22-23 (in part), drawn to composition comprising compounds of Formula 1 where y is 1, x is 0 and A is CH_2;

Group V, claims 22-25 (in part), drawn to composition comprising compounds of Formula 1 where y is 1, x is 0 and A is CH_2CH_2; and

Group VI, claims 22-25 (in part), drawn to composition comprising compounds of

Formula 1 where the compound is  .

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 lack of a significant structural element qualifying as the special technical feature.

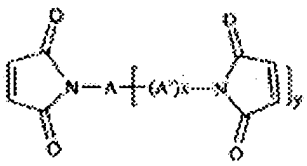
Applicants replied on February 6, 2007, electing, with traverse, Group II. Applicants argued that Groups I-III and IV-VI should be combined as they all have the same special technical feature, a maleimide group. Applicants also argued that the method claims and composition claims should be examined together as they all have the same special technical feature and thus constitute a single invention under PCT rules.

In the next Office action mailed to applicants on April 17, 2007, the examiner maintained the Lack of Unity requirement for the reasons set forth previously and replied to applicants' traversal appropriately. The examiner then combined Groups I and II for purposes of examination. The examiner rejected claims 15-21 as lacking written description in the specification. The same claims were objected as containing non-elected subject matter.

Applicants replied on July 17, 2007, amending claims 24-25 and canceling claims 16-20 and responding to the rejections. Applicants also filed this petition of the Lack of Unity requirement concurrently.

DISCUSSION

Applicants argue that the examiner has failed to properly follow PCT guidelines in determining Lack of Unity by arbitrarily breaking up a Markush group, setting forth overlapping groups and failing to acknowledge that the EPO in performing the initial search and examination did not make a Lack of Unity holding. A review of the claims shows that claims 15-19 set forth a method of using a poly-maleimide for disease treatment. Claims 20-25 are to methods of disease treatment and to compounds/compositions, *per se*, based on a genus of maleimides represented by Formula I, as shown:



A (and also A') is defined as represented by $(R^1)_n$-$(R^2)_p$-$(R^3)_q$ where n, p and q are each 0 or 1 and total 1-3. Each R is further defined as one of 8 different groups, such as acyclic aliphatic, polyalkylene glycol, cyclic aliphatic, monocyclic aromatic hydrocarbon, polycyclic aromatic heterocyclic, etc. Thus each A (and A') is one of up to 512 different groups. Y above has a value of 1-6. From the above, it is clear that the only significant structural element is the maleimide group with everything else being a variable. Lack of Unity is based on defining a significant structural element which is (a) common to all compounds encompassed and (b) makes a contribution over the prior art. Here the maleimide structure is common to all compounds, but does not by itself make a contribution over the prior art.

Applicants point out that the EPO acting as the International Search and Examination Authority did not make a Lack of Unity. However the EPO stated in the Search Report and Examination Reports as follows:

> Claim(s) searched incompletely:
> 1-5,10,11
>
> Reason for the limitation of the search:
>
> Present claims 1-5,10,11 relate to a large number of possible compounds ("maleimide derivatives"). In fact, the claims contain so many options that a lack of clarity (and conciseness) within the meaning of Article 84 EPC arises to such an extent as to render a meaningful search of the claims impossible. Consequently, the search has been carried out for those parts of the application which do appear to be clear (and concise), namely the use of compounds of formula (I) in relation to the treatment of microbial infections.

In other words, the EPO found that the claims (which correspond generally to the pending claims herein) were directed to so many compounds that it was not clear what compounds were being claimed and the search was therefore limited to maleimides in general. It is also noted that a number of pertinent references were cited and applied. US practice does not permit this type of EPO practice.

Applicants are not correct that the Lack of Unity is incomplete. Since there is no significant structural element upon which Unity can be based, every compound is considered to lack unity with every other compound. (However, compounds which would be homologs of each other or have some other significant structural element which would provide a basis for unity should be grouped and examined together.) The examiner's set forth Lack of Unity is based on the first appearing compound in claim 20 – where A is an acyclic aliphatic group of one carbon atom, A' is absent and y is 1. This constituted Group I of the method claims. Group II, a homolog of Group I should have been included with Group I and this was done in response to applicants' traverse of the Lack of Unity requirement. In fact the examiner indicated that all homologs up to 60 carbons would be included in this group. Group III was directed the only claimed species within the genus of Formula I, but is not encompassed by Group I (or II) since it does not have an acyclic aliphatic group linking the two maleimide structures. Like considerations are, or should have been, made for the compound/composition claims. Further, the examiner explicitly stated that the requirement was exemplary due to the large number of variables and their meaning. A conservative estimate of the compounds encompassed by the genus is more than 1.6 million. In view of this the examiner invited applicants to, if desired, identify for Lack of Unity and examination purposes any compound encompassed within the genus.

Applicants are correct that the groups, as initially set forth, overlap in scope, especially Groups I and II and Groups IV and V. However, the examiner has combined Groups I and II and Groups IV and V should also be considered as a single Group. Since Groups IV and V were not elected, the examiner overlooked the need to clarify this modification of the Lack of Unity requirement.

Applicants set forth arguments that under PCT guidelines and the examples set froth in the ISPE guidelines, method and compound claims are considered to have unity. This is correct unless there is no common significant structural element upon which unity can be based. In this particular instance, should the elected method of use claims be determined to be patentable, consideration will be given to rejoinder of compound or composition claims having the same scope as allowed method claims.

Applicants also argue that there is no burden to search all of the compounds encompassed by the claims. However, burden is not a reason applicable to determination of Lack of Unity

DECISION

The petition is **GRANTED-IN-PART.** The Lack of Unity requirement between Groups I-II and IV and V is withdrawn. Groups III and VI do not have Unity with Groups I, II, IV or V, respectively.

The application will be forwarded to the examiner for consideration of applicants' response of March 28, 2007, 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.

John LeGuyader
Director, Technology Center 1600

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Gunni Allan Rosemose	:	
Application No. 10/493,431	:	DECISION ON PETITION
Filed: October 8, 2004	:	
Attorney Docket No. 900.43801X00	:	

This is a decision on the petition under 37 CFR 1.182, filed December 5, 2007, to change the name of inventor "Gunni Allan Jensen" to – Gunni Allan Rosemose --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 will be assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3634.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/493,431	10/08/2004	3634	750	900.43801X00	14	1

CONFIRMATION NO. 4443

CORRECTED FILING RECEIPT

20457
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

OC000000029061110

Date Mailed: 03/25/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Gunni Allan Rosemose, Jerslev, DENMARK;

Power of Attorney:
Donald Stout--26422

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DK02/00716 10/28/2002

Foreign Applications
DENMARK PA 2001 01586 10/26/2001

If Required, Foreign Filing License Granted: 03/24/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/493,431**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Rescue system

Preliminary Class

182

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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APR 2 6 2007

OFFICE OF PETITIONS

In re Application of

GHOSH, Arun et al.
Application No. 10/493,439
Filed: August 16, 2004
Attorney Docket No. **022266-000710US**

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 07, 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, (assignees instructed application be transferred to new law firm for prosecution), does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MORRISON & FOERSTER**
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

15 FEB 2005

#5

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
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ARLINGTON VA 22209-9889

In re Application of TABATA et al. Application No.: 10/493,443 PCT No.: PCT/JP02/10510 Int. Filing: 10 October 2002 Priority Date: 24 October 2001 Attorney Docket No.:843.43798X00 For: VERTICAL MISFET MANUFACTURING METHOD: VERTICAL MISFET, SEMICONDUCTOR MEMORY DEVICE MANUFACTURING METHOD, AND SEMI-CONDUCTOR MEMORY DEVICE	DECISION ON PETITION UNDER 37 CFR §§1.47(a) and 1.42

This is a decision on applicant's petition under 37 CFR §§1.47(a) and 1.42 filed in the United States Patent and Trademark Office (USPTO) on 15 December 2004. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 23 April 2004, within thirty months of the priority date, applicant filed a transmittal letter 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 15 September 2004, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 15 December 2004, applicant filed a declaration in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) and to comply with 37 CFR 1.497(a) & (b). Petitioner requests status under 37 CFR 1.42 and 1.47(a). The declaration is signed by the legal representatives of deceased inventor Teruaki Kisu. The petition requests the acceptance of the application without the signature of inventor Satoru Haga, who allegedly refuses to sign the application.

DISCUSSION

Status under 37 CFR §1.42

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal

representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration submitted on 15 December 2004 is defective since it does not state the country of citizenship, residency and mailing address for both the deceased inventor and the legal representatives, as required for compliance with 37 CFR 1.497. Thus, the declaration is not in compliance with 37 CFR 1.497(b). A new declaration, which is executed by the legal representatives of Teruaki Kisu and in compliance with 37 CFR 1.497 (a) and (b), is required. The declaration must set forth the citizenship, residency and mailing address for both the deceased inventor and the legal representatives.

Request 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 non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) and (3) are satisfied with the payment of the $400 petition fee per petitioner's authorization to charge his deposit account and with the submission of the nonsigning inventor's last known address. With respect to Item (4), for the reasons set forth above, a new declaration is required.

With respect to item (2), Petitioner provides the "Declaration of Hashime Nagai Presented As Statement of Facts under 37 CFR 1.47" dated 26 November 2004, in support of the petition under 37 CFR 1.47(a), who has first hand knowledge of inventor Satoru Haga's refusal to sign the application.

Affiant Nagai states that "On July 26, 2004, I sent a declaration and power of attorney form, an assignment form, and a copy of the specification, including the claims, and the drawings for the above-identified application to Mr. Haga's last known address by registered mail. However, the mail was returned to sender on August 5, 2004 from the Japanese Post Office because it had not been received by Mr. Haga within a specific period. A copy of the envelope returned from the Japanese Post Office is attached."

Affiant Nagai also states that on the same day, July 26, 2004, he sent to Mr. Haga at his last known address a "Contents-Certified" mail, which was also returned to sender on August 5, 2004 from the Japanese Post Office because it had not been received by Mr. Haga within a specific period.

Petitioner provided a copy of the envelope in the Japanese language. However, it is unclear what significance this evidence has since an English translation of the entire Japanese language postal receipt was not provided and is required. The evidentiary value of the envelope must be explained.

The evidence presented[1] is insufficient to conclude that Mr. Haga refuses to sign the application because no explanation of the non-delivery of this mailing is explained. It is not

[1] Petitioner attached two declarations of Yoshitsugu Harada, directed to U.S. application no. 10/278,918, which describe the efforts attempted to present Mr. Haga with a complete copy of that application for his signature. However, this information is irrelevant in the petition under 37 CFR 1.47(a) in the application at issue.

known whether Mr. Haga was on vacation during the time period between July 26 and August 5, 2004 or whether the Post Office left a notice that Mr. Haga had mail awaiting delivery to him.

Mr. Nagai fails to provide any details of any other attempts to reach inventor Haga i.e. by phone with dates and times the phone calls were placed, what phone number was called (Mr. Haga's home or work number), and whether any message was left with a person or on an answering machine. Nor was there any attempt to follow-up the delivery of the application papers with an E-mail message to Mr. Haga to confirm his refusal to sign.

It can not be concluded at this time that Mr. Haga was provided with a complete copy of the application papers (oath and declaration, specification, including claims and drawings) and that his conduct constitutes a refusal to sign the application. The evidence submitted does not support a finding that the nonsigning inventor refused to sign the application for the reasons set forth above.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Applicant has not made diligent efforts to contact Mr. Haga to obtain his signature. Under these circumstances, it cannot be concluded Mr. Haga either refused or is unavailable to sign the application. 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 extensions of time remaining under the Notification of Missing Requirements may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No 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.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Fax: (571)272-0459

07 SEP 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

In re Application of TABATA et al. Application No.: 10/493,443 PCT No.: PCT/JP02/10510 Int. Filing: 10 October 2002 Priority Date: 24 October 2001 Attorney Docket No.:843.43798X00 For: VERTICAL MISFET MANUFACTURING METHOD VERTICAL MISFET, SEMICONDUCTOR MEMORY DEVICE MANUFACTURING METHOD, AND SEMI-CONDUCTOR MEMORY DEVICE	DECISION ON PETITIONS UNDER 37 CFR §§1.47(a) and 1.42

This is a decision on applicant's renewed petitions under 37 CFR §§1.47(a) and 1.42 filed in the United States Patent and Trademark Office (USPTO) on 11 August 2005. Applicant's request for a fourth month extension of time is granted.

BACKGROUND

On 23 April 2004, within thirty months of the priority date, applicant filed a transmittal letter 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 15 September 2004, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 15 December 2004, applicant filed a declaration in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) and to comply with 37 CFR 1.497(a) & (b). Petitioner requested status under 37 CFR 1.42 and 1.47(a). The declaration was signed by the legal representatives of deceased inventor Teruaki Kisu. The petition requested the acceptance of the application without the signature of inventor Satoru Haga, who allegedly refused to sign the application.

On 15 February 2005, a decision dismissing the petition was mailed to applicant indicating (1) the declaration submitted on 15 December 2004 was defective as it did not state the country of citizenship, residency and mailing address for both the deceased inventor and the legal representatives, as required for compliance with 37 CFR 1.497(a) and (b) and (2) the evidence submitted did not support a finding that the nonsigning inventor refused to sign the application.

On 11 August 2005, applicant filed a renewed petition along with a newly executed declarations by the legal representatives and the previously nonsigning inventor.

DISCUSSION

Status under 37 CFR §1.42

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration submitted on 11 August 2005 is in compliance with 37 CFR 1.497(a) and (b) because it is executed by the legal representatives of Teruaki Kisu and sets forth the citizenship, residency and mailing address for both the deceased inventor and the legal representatives. The request for status under 37 CFR 1.42 is granted.

Request under 37 CFR 1.47(a)

With the submission of a declaration executed by the previously non-signing inventor Satoru Haga, the petition under 37 CFR 1.47(a) is now moot. The declaration submitted on 11 August 2005 and signed by Satoru Haga as the seventh joint inventor is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

The request for status under 37 CFR 1.42 is **GRANTED**. As stated above, the petition under 37 CFR 1.47(a) is considered **MOOT**.

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 August 2005.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Fax: (571)272-0459

2 25 JUL 2005

#5

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Ronald E. Greigg
Greigg & Greigg P.L.L.C.
1423 Powhatan Street, Suite One
Alexandria, VA 22314

In re Application of Koehler et al. Application No.: 10/493,449 PCT No.: PCT/DE03/00382 Int. Filing Date: 11 February 2003 Priority Date: 28 August 2002 Attorney's Docket No.: R303706 For: FUEL INJECTION SYSTEM FOR AN INTERNAL COMBUSION ENGINE	DECISION ON PETITION UNDER 37 CFR 1.42

This is a decision is in response to the "RESPONSE TO MISSING REQUIRMENTS UNDER 35 U.S.C. 371" filed 02 May 2005.

BACKGROUND

On 11 February 2003, applicants filed international application PCT/DE03/00382. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 March 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2005.

On 23 April 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 of $920 and a declaration of inventors which included an indication that joint inventor Thomas Beohm is deceased.

BEST AVAILABLE COPY

On 18 August 2004, the United States Patent and Trademark Office issued a decision indicating that the declaration submitted 23 April 2004 was defective because it did not contain a statement indicating that the signing heirs are the sole heirs of the deceased inventor.

On 01 March 2005, the United States Patent and Trademark Office issued 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) that indicated that the declaration did not comply with 37 CFR 1.497(a), and set a two-month time period for response.

On 18 March 2005, applicants filed the current response which included a statement of Petra Boehm indicating that Petra, Jacqueline and Natalie Boehm are the sole heirs of Thomas Boehm.

DISCUSSION

With respect to applicants' declarations in the current application, 37 CFR 1.42 states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497 states, in part:

> (a) When an applicant of an international application desires to enter the national stage under 35U.S.C. 371 pursuant to 1.494 or 1.495, he or she must file an oath or declaration that:
> (1) Is executed in accordance with either 1.66 or 1.68;
> (2) Identifies the specification to which it is directed;
> (3) Identifies each inventor and the country of citizenship of each inventor; and
> (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.
> (b) (1) The oath or declaration must be made by all of the actual inventors except as provided for in 1.42, 1.43 or 1.47.

> (2) If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of the person to the inventor, the facts required by 1.42, 1.43 or 1.47, 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.

Applicant has now met the requirements of 37 CFR 1.497(a), by providing the required statement.

CONCLUSION

Applicants' request under 37 CFR 1.42 is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision; and, if appropriate, a Notification of Acceptance of Application (Form PCT/DO/EO/903) will be mailed showing a 35 U.S.C. 371 date of 23 April 2004.

Debra S. Brittingham
PCT Legal Examiner
Office of PCT Legal Administration

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (571) 272-3280
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of
PEINE, et al.
Application No. 10/493,459
Filed: November 15, 2004
Attorney Docket No. **P0660.70006US01**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 16, 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 October 11, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Edmund J. Walsh 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.

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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 Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

United States Patent and Trademark Office

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GUDRUN E. HUCKETT DRAUDT
LONSSTR. 53
WUPPERTAL D-42289
GERMANY

0 8 JAN 2007

In re Application of	:	
Klaus Reinhold	:	
Application No.: 10/493,476	:	DECISION
PCT No.: PCT/EP02/11908	:	
Int. Filing Date: 24 October 2002	:	ON
Priority Date: 24 October 2001	:	
Attorney Docket No.: 602093	:	PETITION
For: Device For Winding Webs Of Material	:	

This is in response to the correspondence filed on 18 August 2006, which is being treated as a petition to withdraw the holding of abandonment.

BACKGROUND

This international application was filed on 24 October 2002, claimed an earlier priority date of 24 October 2001, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 01 May 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 24 April 2004. Applicants filed *inter alia* the basic national fee on 23 April 2004.

On 01 July 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b) (the surcharge under 37 CFR 1.492(e) then in effect had already been paid).

On 05 July 2005, applicant filed a response, including an executed declaration.

On 12 July 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Form PCT/DO/EO/905 mailed on 01 July 2005.

DISCUSSION

Petitioner characterizes the notification of abandonment mailed on 12 July 2006 as "incorrect" based on the position that "the undersigned submitted a response on July 5, 2005..." Review of the application file reveals that the 05 July 2005 response is present, and that it includes an executed declaration of the inventor which complies with the requirements of 37 CFR 1.497(a) and (b). Therefore, the Notification of Abandonment mailed on 12 July 2006 was improper, and it is hereby **VACATED**.

It is noted that the English translation of the international application filed on 23 April 2004 is defective because it includes subject matter ("TRL of PCT/EP02/11908 - Inventor(s): K. Reinhold - Assignee: Klaus Reinhold Maschinen- und Geratebau GmbH") which is not present in the published international application. This subject matter is present on each page of the translated specification, claims and drawings. As such, it would not be appropriate to accept the translation.

DECISION

The petition to withdraw the holding of abandonment is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an acceptable English translation of the international application along with the $130.00 surcharge under 37 CFR 1.492(i).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Hans-Jochen MORPER	:	
Application No. 10/493,489	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 449122071600	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

The request is **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 with customer No. 25227.

All attorneys/agents associated with 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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: HANS-JOCHEN MORPER
NUSSSTR.10
85253 ERDWEG
GERMANY

cc: BELL, BOYD & LLOYD, LLP
P.O.BOX 1135
CHICAGO, IL 60690

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/493,489	10/18/2004	Hans-Jochen Morper	449122071600

CONFIRMATION NO. 3111

OC000000026201250

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 10/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2007.

- 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

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MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Ralf Ludwig, et al.	:	
Application No. 10/493,490	:	DECISION ON PETITION
Filed: November 8, 2004	:	TO WITHDRAW
Attorney Docket No. 543822004900	:	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 9, 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 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: RALF LUDWIG
AKAZIENSTRASSE 3
MUNCHEN 81547 GERMANY

cc: GERO G. MCCELLAN
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/493,490	11/08/2004	Ralf Ludwig	543822004900

CONFIRMATION NO. 4372

OC000000025988715

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2007.

- 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

22 NOV 2005

#2

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

In re Application of BATTEN et al	:	
U.S. Application No.: 10/493,508	:	
PCT Application No.: PCT/GB02/04797	:	DECISION
Int. Filing Date: 24 October 2002	:	
Priority Date Claimed: 24 October 2001	:	
Attorney Docket No.: SOMMR-010US	:	
For: LOOP IMPEDANCE METER	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Office Action Not Received" filed 09 November 2005, which is being treated under 37 CFR 1.181.

BACKGROUND

On 24 October 2002, applicant filed international application PCT/GB02/04797, which claimed priority of an earlier United Kingdom application filed 24 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 April 2004.

On 21 April 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 24 September 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 09 November 2005, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 09 November 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, applicant's representative has supplied what appears to be a docket record for the present application. However, the petition provides no explanation regarding the document. Moreover, such a docket record would be inadequate. Petitioner must furnish a docket record which lists responses due to the USPTO on 24 November 2004 for all cases handled by the representative's firm or for all cases handled by the representative if the record for the entire firm is not available. This docket record must illustrate the absence of any listing of a response due to a Notification of Missing Requirements.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

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06 DEC 2005

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

In re Application of BATTEN et al	:	
U.S. Application No.: 10/493,508	:	
PCT Application No.: PCT/GB02/04797	:	DECISION
Int. Filing Date: 24 October 2002	:	
Priority Date Claimed: 24 October 2001	:	
Attorney Docket No.: SOMMR-010US	:	
For: LOOP IMPEDANCE METER	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.181 to Withdraw Holding of Abandonment Office Action Not Received" filed 30 November 2005.

BACKGROUND

On 24 October 2002, applicant filed international application PCT/GB02/04797, which claimed priority of an earlier United Kingdom application filed 24 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 April 2004.

On 21 April 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 24 September 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 09 November 2005, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 09 November 2005, applicant filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment along with an executed declaration.

On 22 November 2005, this Office mailed a decision dismissing the 09 November 2005 petition.

On 30 November 2005, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, the renewed petition includes a docket record which lists responses due to the USPTO on 24 November 2004 for all cases handled by applicant's representative. This docket record illustrates the absence of any listing of a response due to a Notification of Missing Requirements.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 November 2005 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 October 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 09 November 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

In re Application of Kawanishi :
Application No. 10/493,511 : Decision on Petition
Filing Date: July 21, 2004 :
Attorney Docket No. ACO389 :

This is a decision on the petition under 37 CFR 1.181, filed February 21, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed May 2, 2006. The Office action set a two (2) month shortened statutory period for reply.

A reply and a request for an extension of time were filed November 3, 2006. The papers included a Certificate of Mailing dated October 31, 2006.

A Notice of Abandonment was mailed February 7, 2007. The Notice stated, "A reply was received on 03 November 2006 (with a Certificate of Mailing or Transmission dated n/a), which is after the expiration of the period for reply." As stated previously, the papers did include a Certificate of Mailing dated October 31, 2006.

Per the Certificate of Mailing, the reply was timely filed. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2841 will be informed of the instant decision and the merits of the reply filed November 3, 2006, will be considered in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

03 FEB 2005

#5

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Dunlap, Coding & Rogers P.C.
1601 NW Expressway Street
Suite 1000
Oklahoma City, OK 73118-1467

In re Application of	:	
HIGGINS et al.	:	
U.S. Application No. 10/493,512	:	DECISION ON PETITION
PCT No.: PCT/US02/35776	:	
Int. Filing Date: 06 November 2002	:	
Priority Date: 06 November 2001	:	
Attorney Docket No.: 284.013	:	
For: GAMING SYSTEM USING AN AUTOMATIC TELLER MACHINE		

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 08 December 2004. The requisite petition fee has been submitted.

BACKGROUND

On 06 November 2002, applicants filed international application PCT/US02/35776 which claimed a priority date of 06 November 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 06 May 2004.

On 21 April 2004, applicants filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: the basic national fee and a copy of the international application.

On 08 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 December 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. Applicant has provided items (1); (3); and (4) under 37 CFR 1.47(a).

Regarding item (2) above, petitioner states that Robert Montgomery 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 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.
>
> 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 the conclusion is based should be stated in an 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.

A review of the present petition reveals that applicants have not satisfied the item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Robert Montgomery. The declaration of Marc A. Brockhaus states that a Declaration was mailed to Robert Montgomery on numerous occasions. Further, the declaration of Julianna G. Deligans states that she faxed a Declaration/Power of Attorney to the nonsigning inventor. The mailing or faxing of a Declaration/Power of Attorney is not considered a complete copy of the application papers (specification, including claims, drawings). Was a complete application (specification, claims, and drawings) mailed to the nonsigning inventor?

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 Robert Montgomery, 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 Robert Montgomery 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, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be 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

24 MAR 2005

#7

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1601 NW Expressway Street
Suite 1000
Oklahoma City, OK 73118-1467

In re Application of	:	
HIGGINS et al.	:	
U.S. Application No. 10/493,512	:	DECISION ON PETITION
PCT No.: PCT/US02/35776	:	
Int. Filing Date: 06 November 2002	:	
Priority Date: 06 November 2001	:	
Attorney Docket No.: 284.013	:	
For: GAMING SYSTEM USING AN AUTOMATIC TELLER MACHINE		

This decision is in response to applicants' "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" filed 17 March 2005. In a decision dated 03 February 2005, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Robert Montgomery, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 17 March 2005 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Robert Montgomery. The declaration filed 17 March 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 06 November 2002 under 35 U.S.C. 363 and a date of **17 March 2005** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/22/2010

Applicant	: Karl Ernst Friedrich	: DECISION ON REQUEST FOR
Patent Number	: 7658807	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/493,522	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **765** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of	:	
Mitsuji Adachi et al	:	
Application No. 10/493,548	:	ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 43888-307	:	

This is a decision on the petition, filed June 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 3, 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 1745 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).

Docket No.: 043888-0307

OIPE IAP58
JUN 2 6 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Customer Number: 20277
Mitsuji ADACHI, et al.	Confirmation Number: 5187
Application No.: 10/493,548	Group Art Unit: 1795
Filed: April 22, 2004	Examiner: MARTIN, Angela J.
For: ALKALINE DRY BATTERY	

REQUEST TO APPLY THE PREVIOUSLY PAID ISSUE FEE

Mail Stop **ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant is in receipt of the Decision Granting Petition Under 37 CFR 1.313(c)(2), dated June 11, 2007, in connection with the above-identified application and respectfully requests that the Issue Fee paid on April 3, 2007, be applied to the attached new Issue Fee Transmittal.. A copy of the Decision Granting Petition is attached.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF:kh
Facsimile: 202.756.8087
Date: June 26, 2008

Please recognize our Customer No. 53080 as our correspondence address.

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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OIPE IAP58
JUN 26 2008
PATENT & TRADEMARK OFFICE

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JUN 11 2007

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of	:	
Mitsuji Adachi et al	:	
Application No. 10/493,548	:	ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 43888-307	:	

This is a decision on the petition, filed June 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 3, 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 1745 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

RECEIVED
JUN 18 2007
McDermott Will & Emery LLP
DC Office

[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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September 20, 2006

FILE COPY

Patent No. : 7,071,138 B2
Ser. No. : 10/493550
Inventor(s) : Tanase, et al.
Issued : July 4, 2006
Title : **SOLID CATALYST COMPONENT FOR OLEFIN POLYMERIZATION, CATALYST FOR OLEFIN POLYMERIZATION AND PROCESS FOR PRODUCING OLEFIN POLYMER**
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: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

Charles A. Wendel
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington DC 20036

CBN/eme

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MAY 30 2007

OFFICE OF PETITIONS

CHARLES A. WENDEL
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036

In re Patent No. 7,071,138	:	
Issue Date: July 4, 2006	:	
Application No. 10/493,550	:	ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. HEIW:028	:	

This is a decision on the petition filed November 29, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

Patent No.: 7,071,138

OIPE IAP97
NOV 29 2006
PATENT & TRADEMARK OFFICE

Old Attorney Docket No. HEIW:028
New Attorney Docket No. 28955.1028

The PTO is hereby authorized to charge the petition fee of $130 stated in 37 CFR 1.17(h), or charge any additional fee(s) or underpayments, or credit any overpayment of fee(s) to Deposit Account No. 19-4293. When this request is granted, the PTO is also authorized to charge the certificate of correction fee of $100 stated in 37 CFR 1.20(a) to Deposit Account No. 19-4293.

Respectfully submitted,

STEPTOE & JOHNSON LLP

Roger W. Parkhurst
Registration No. 25,177

Date: November 29, 2006

STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel: (202) 429-6420

Old Attorney Docket No. HEIW:028
New Attorney Docket No. 28955.1028

Attachment: Notice of Recordation of Assignment Document
Certificate of Correction (PTO-1050)

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Aug-08

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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AUG 29 2008

In re Application of Roy Edward Anderson Application Number: 10/493581 Filing Date: 10/19/2004 Attorney Docket Number: 034149-001	: : : : : :	ON PETITION

This is a decision on the "PETITION TO RESTART PERIOD DUE TO NON-RECEIPT OF OFFICE ACTION AND RESCIND ABANDONMENT," filed on October 4, 2006, which is treated as a petition to withdraw the holding of abandonment.

The Office apologizes for the delay in responding to the present petition.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on February 10, 2006. Notice of Abandonment was mailed on September 5, 2006.

Petitioner asserts that the non-final Office action mailed on February 10, 2006, was not received. Counsel states, in pertinent part, that a review of PAIR reveals that the non-final Office action was returned as undeliverable.

A review of the record reveals that the Office action mailed on February 10, 2006, was returned as undeliverable on February 13, 2006. Further, an inspection of the Office' Image File Wrapper system reveals that a copy of the envelope showing that the Office action was returned is located therein, and the address window in the USPTO envelope appears blank. Accordingly, it is concluded that the Office action was returned as undeliverable because the address was not visible through the address window on the envelope mailed by the USPTO.

As such, the showing of record is that there was an irregularity in the mailing, and the Office action was not received as a result of an Office error. For this reason, the practitioner did not receive the non-final Office action of February 10, 2006.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.[1]

The petition is **GRANTED.**

No petition fee is due and none has been charged.

The application file is being referred to Technology Center Art Unit 2164 technical support staff for remailing of the non-final Office action mailed on February 10, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] See MPEP 707.13. If the Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. Id.

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William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Kenji Yamasaki	: DECISION ON REQUEST FOR
Patent Number	: 7593619	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/493,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1421** 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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William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 05/18/2010

Applicant : Kenji Yamasaki
Patent Number : 7593619
Issue Date : 09/22/2009
Application No : 10/493,584
Filed : 04/23/2004

: 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 **1489** 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).

17 MAR 2005

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WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

In re Application of MENSAH et al	:	
U.S. Application No.: 10/493,588	:	
PCT Application No.: PCT/GB02/04812	:	
Int. Filing Date: 24 October 2002	:	DECISION
Priority Date Claimed: 24 October 2001	:	
Attorney Docket No.: M0274.70038US00	:	
For: DATA PROCESSING SYSTEM AND	:	
METHOD	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 18 February 2005.

BACKGROUND

On 24 October 2002, applicant filed international application PCT/GB02/04812, which claimed priority of an earlier United Kingdom application filed 24 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 April 2004.

On 23 April 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 18 February 2005, applicant filed the present petition under 37 CFR 1.47(a) along with an executed declaration.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning inventor.

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 Trevor Mensah refuses to sign the application papers. However, the petition does not adequately demonstrate that a bona fide attempt was made to present Mr. Mensah with a copy of the complete application papers. Furthermore, the petition does not include sufficient evidence of Mr. Mensah's purported refusal to sign. Specifically, although the affidavit of Caroline Warren states that Mr. Mensah refuses to execute a declaration, the affidavit does not specify how, when, and to whom such refusal was communicated. Thus, it would not be reasonable to conclude at the present time that Mr. Mensah refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

20 APR 2005

#7

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

In re Application of MENSAH et al	:	
U.S. Application No.: 10/493,588	:	
PCT Application No.: PCT/GB02/04812	:	
Int. Filing Date: 24 October 2002	:	DECISION
Priority Date Claimed: 24 October 2001	:	
Attorney Docket No.: M0274.70038US00	:	
For: DATA PROCESSING SYSTEM AND	:	
METHOD	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 13 April 2005.

BACKGROUND

On 24 October 2002, applicant filed international application PCT/GB02/04812, which claimed priority of an earlier United Kingdom application filed 24 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 April 2004.

On 23 April 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 18 February 2005, applicant filed a petition under 37 CFR 1.47(a) along with an executed declaration.

On 17 March 2005, this Office mailed a decision dismissing the 18 February 2005 petition.

On 13 April 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 Trevor Mensah refuses to sign the application papers. The renewed petition adequately demonstrates that a bona fide attempt was made to present Mr. Mensah with a copy of the application papers (see second affidavit of Caroline Warren, ¶2). Furthermore, the petition includes sufficient evidence of Mr. Mensah's refusal to sign. Specifically, Mr. Mensah made an express oral refusal to sign during a telephone conference with Ms. Warren (see Ms. Warren's second affidavit, ¶3). Thus, it can be concluded with reasonable certainty that Mr. Mensah refuses to join in the application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 October 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 18 February 2005.

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

20 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Trevor Mensah
4 Tilstock Close
Oaklands Manor, Holewood Village
Merseyside L26 6NA
United Kingdom

In re Application of MENSAH et al
U.S. Application No.: 10/493,588
PCT Application No.: PCT/GB02/04812
Int. Filing Date: 24 October 2002
Priority Date Claimed: 24 October 2001
For: DATA PROCESSING SYSTEM AND METHOD

Dear Trevor Mensah:

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

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
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BOSTON, MA 02210-2211

Attorney Docket No.: M0274.70038US00

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OFFICE OF PETITIONS

In re Application of

CARROLL, Miles et al.
Application No. 10/493,627
Filed: April 23, 2004
Attorney Docket No. **021911.001600US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 08, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Karen B. Dow on behalf of all attorneys of record who are associated with customer No. 20350. 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.

There is an outstanding Office action mailed February 06, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MILES W. CARROLL**
OXFORD BIOMEDICA (UK) LIMITED
MEDAWAR, CENTRE, ROBERT ROBINSON AVE
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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Sacchetti et al.	:	
Application No. 10/493,636	:	
Filed: April 22, 2004	:	
Attorney Docket No. FE 6040 (US)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 1, 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 payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUN 14 2007

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MERCK AND CO., INC
P O BOX 2000
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In re Application of	:
Miller J. Ogidigben et al	:
Serial No.: 10/493,649	: PETITION DECISION
Filed: April 22, 2004	:
Attorney Docket No.: MC052	:

This is in response to the petition under 37 CFR 1.144, filed March 28, 2007, requesting withdrawal of an improper Lack of Unity requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on April 22, 2004, and contained claims 1-31. In a first Office action, mailed November 28, 2006, the examiner set forth a Lack of Unity requirement, as follows:

Group I, claims 1-7, in part, drawn to compounds of Formula 1 where R_1 is a 5-member heteroaryl;

Group II, claims 1-6, in part, drawn to the compounds of Formula 1 where R_1 is a 6-member heteroaryl having one nitrogen;

Group III, claims 1-6, in part, drawn to the compounds of Formula 1 where R_1 is a 6-member heteroaryl having one nitrogen and one other heteroatom;

Group IV, claims 8-31, drawn to a method of using the compounds of Formula 1.

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 lack of a significant structural element qualifying as the special technical feature. The examiner also advised of rejoinder of method claims where product claims are elected and found allowable. The examiner cited US 6,849,657 for evidence of lack of a special technical feature.

Applicants replied on December 14, 2006, electing, with traverse, Group I. Applicants argued that the reference cited was insufficient to show Lack of Unity. Applicants also argued that the special technical feature linking the inventions was the disease/condition being treated which is different from the cited reference.

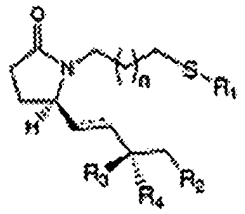
In the next Office action mailed to applicants on February 5, 2007, the examiner maintained the Lack of Unity requirement for the reasons set forth previously and defined what was considered

to be the technical feature or significant structural element common to all compounds and that it was not considered special. Claims 1-6 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-7 were objected to for containing non-elected subject matter, but were otherwise allowable over the art.

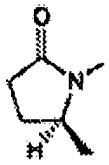
Applicants replied on March 28, 2007, amending claims 1-2 and 4 and canceling claims 3 and 8-31 and responding to the rejections. Applicants also filed this petition of the Lack of Unity requirement concurrently.

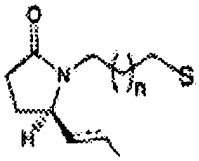
DISCUSSION

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.



FORMULA I





The examiner has defined the significant structural element of Formula I as the middle figure above. This, however, is incorrect. The third (right-most) figure is a more comprehensive significant structural element since it includes no variables (except "n" which only creates homologs of the figure and an optional single/double bond). In the Lack of Unity requirement the examiner separated the first three groups based on R_1 values. This is improper since R_1 is a variable and not part of the (basically) invariant significant structural element. However, a review of the cited 6,849,657 does show the basic significant structural element noted above (including corresponding values for R_2-R_4). Thus the examiner is correct that the significant structural element which can be defined is not a special technical feature as it does not define over the prior art. Thus lack of Unity exists for each individual variable defined by R_1.

Applicants point out that the examiner has not set forth a proper Lack of Unity in that the examiner has set forth only three definitions for R_1, specifically where R_1 is a heteroaryl group of five or six members and one or two hetero atoms. Such listing ignores values of R_1 where there is no heteroaryl group, such as CN, C_{1-4}alkoxy, $COOR_x$, CSO_y, etc. There is also no definition in the claims that heteroaryl is five or six membered and contains only one or two heteroatoms. Thus the Lack of Unity, although justified on its face, is not properly set forth. It is further noted that the method of use claims based on the same Formula I are not divided in the same manner as the compound claims. Presumably this is because of the disease/condition being treated creating a supplemental basis providing Unity within the claims.

Applicants also argue that there is no burden to search all of the compounds encompassed by the claims. However, burden is not a reason applicable to determination of Lack of Unity

DECISION

The petition is **DENIED.** The Lack of Unity requirement between Groups I-IV is maintained. Group IV remains subject to rejoinder with allowed compound claims.

The application will be forwarded to the examiner for consideration of applicants' response of March 28, 2007, 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.

John LeGuyader
Director, Technology Center 1600

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AUG 20 2008

In re Application of :
Bernard Bouffier et al :
Application No. 10/493,653 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. 15675P527 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 7, 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). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3735 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Paul George Priester	: DECISION ON REQUEST FOR
Patent Number	: 7601065	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/493,666	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Patent No. 7,419,698	:	
Anthony Copeland Jones	:	
Issued: September 2, 2008	:	DECISION ON REQUEST FOR
Application No. 10/493,667	:	RECONSIDERATION OF
Filed: August 31, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
5268-000037/US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed on October 31, 2008. Patentees request that the patent term adjustment indicated on the face of the patent be corrected from 259 days to a minimum of 535 days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred eighty-six (386) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On September 2, 2008, the above-identified application matured into US Patent No. 7,419,698 with a patent term adjustment of 259 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentee asserts that it is entitled to additional patent term adjustment because the period of 14 Month Delay ended on December 9, 2005 prior to the first day of the period of Three Years Delay, *i,e.*, September 1, 2007. Citing Wyeth v. Dudas,[1] patentee submits that, therefore, these periods are not overlapping. Patentee notes, however, that 47 of the 284 days of 4 Month Examination Delay (January 7, 2007 to 17 October 2007) overlaps with portions of the Three Year Delay period (September 1, 2007 to September 2, 2008).

Patentee argues that the total period for Office delay is 644 days, which is the sum of the period of Three Year Delay (368 days) and the period of Examination Delay (323 days), reduced by the period of overlap (47 days). Patentee asserts, therefore, that the correct patent term adjustment is the difference between the total period of Office delay, or 644 days, and the applicant delay, or 109 days, resulting in a revised patent term adjustment of 535 days.[2]

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay

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[1] 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

[2] The 39 day period is for failure by the Office to mail at least one notification under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, pursuant to § 1.702(a)(1). A non-final Office action was mailed on December 9, 2005, which is 14 months and 39 days after the date on which the requirements of 35 U.S.C. 371 were fulfilled, or August 31, 2004. The 284 day period is for the failure of the Office to mail a response to the reply under 37 CFR 1.111, filed on September 6, 2006, within four (4) months of the date the reply was filed. A reply was filed on September 6, 2006. On October 17, 2007, four (4) months and 284 days after the filing of the reply, the Office mailed a non-final office action.

reduced by the period of applicant delay. The period of reduction of 109 days for applicant delay is not in dispute[3]. The period of adjustment under 1.702(b) is the number of days, if any, in the period beginning on the delay after the date that is three (3) years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued.[4]

At the outset, patentee's argument that the period of three year delay under 37 CFR 1.703(b) is the period beginning three years after August 31, 2004 and ending on September 2, 2008, is incorrect. In this regard, this application is a national stage application commenced under 35 U.S.C. 371(b). As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an

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[3] The periods of reduction are, pursuant 37 CFR 1.704(b), 39 days for failure to file a reply to an Office action within three months of the date of mailing of the Office action; pursuant to 37 CFR 1.704(c)(7), 49 days for a reply having an omission, and, pursuant to 37 CFR 1.704(c)(10), 21 days for submission of an amendment under § 1.312 or other paper after a notice of allowance has been mailed.

[4] but not including the sum of the following periods:
(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and
(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;
(ii) The number of days, if any, from the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; and
(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and
(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

international application. As such, while the date of completion of all 35 U.S.C. 371 requirements, or August 31, 2004, is the date used in calculation of the examination delay under 37 CFR 1.703(a), the date that the national stage commenced under 35 U.S.C. 371(b) or (f), which is April 26, 2004, is used in determining the period of Three Year Delay delay pursuant to 37 CFR 1.703(b).

The national stage commenced on April 26, 2004 in this application. The instant patent issued 3 years and 495 days after the commencement date. However, any days of delay for Office issuance of the patent more than 3 years after the commencement date, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the commencement date, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 USC 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 495 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 323 (39+284) days attributable to grounds specified in § 1.702(a)(1), and (2). Thus, at issuance, only an additional period of adjustment of 172 days will be entered for a total of 495 days.

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 323 days for examination delay, plus 172 days for the period of Three Year Delay, is correct. At issue is whether patentees should accrue 368 days of patent term adjustment (adjusted for overlap, per patentee's calculations) for the Office taking in excess of three years to issue the patent, as well as 323 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that the 495 day period (B delay) overlaps with the 323 day period (A delay). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37*

> *CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a

> secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[5]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 31, 2004 to September 2, 2008. 323 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame. The patent issued three (3) years and 495 days after the commencement date. 495 days is determined to be the actual number of days that the issuance of the patent was delayed. 495 days for Office delay in issuing the patent overlapped with the 323 days, accorded during the pendency of the application. Accordingly, at issuance, the Office should have entered 172 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent for a total Office delay of 495 days.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent is 386 days (323 days of Examination delay + 172 days of Three Year Delay - 109 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on October 31, 2008. No additional fees are required.

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[5] 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).

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 three hundred eighty-six **(386)** days.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

Encl: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,419,698 B2

DATED : September 2, 2008

INVENTOR(S) : Anthony Copeland Jones

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 (259) days

Delete the phrase "by 259 days" and insert – by 386 days--

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
DIW Jun-06

IVAN S KAVRUKOV
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUN 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Goto et al.	:	DECISION ON PETITION TO
Application No. 10/493,678	:	WITHDRAW HOLDING OF
Filed: 23 April, 2004	:	ABANDONMENT
Attorney Docket No. 1141/72239	:	

This is a decision on the petition filed on 5 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 9 August, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that the Office action mailed on 9 August, 2005, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner's counsel, registered patent attorney Paul Teng, asserts that a search of the file jacket and docket records indicates that the Office action was not received. Additionally, a copy of the docket report where the Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Consequently, there is no abandonment in fact, and any holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2800 technical support staff for remailing of the Office action mailed 9 August, 2005. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 30, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No 10/493702patent no7291638

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: _____

/Joseph K. McKane/ — **SPE**

1626 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

Maria Parrish Tungol
211 North Union Street
Suite 100
Alexandria VA 22314

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MAY 27 2008

In re Application of	:	
DOH, JAE GOO	:	DECISION ON PETITION
Application No. 10/493,705	:	
Filed: 04/17/2004	:	
Attorney Docket No. 1250	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2008, to revive the above-identified application.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on September 5, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on December 6, 2007. A Notice of Abandonment was mailed on January 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Data Management for issuance of a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FENWICK & WEST
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of

SLOMSKI, Dennis et al.
Application No. 10/493,719
Filed: April 23, 2004
Attorney Docket No. **9036 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 August 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).

The request was signed by Narinder Banait, the sole attorney of record. Narinder Banait has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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: **DENNIS SLOMSKI**
5636 STEVENS CREEK BLVD. #185
CUPERTINO, CA 95014

cc: **PERKINS COIE**
PETER DEHLINGER, ESQ.
101 JEFFERSON DRIVE
MENLO PARK, CA 94025

2 3 DEC 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Joseph B. Lerch
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of	:	
LOPATIN, et al.	:	DECISION ON PETITION
Serial No.: 10/493,737	:	
PCT No.: PCT/US02/24224	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 30 July 2002	:	
Priority Date: 24 October 2001	:	
Atty Docket No.: 04224/100J948-US1	:	
For: IDENTIFICATION OF USERS ON A NETWORK	:	

This decision is in response to the petition under 37 CFR 1.47(a) filed 03 December 2004 to accept the application without the signature of joint inventor Diego Dayan.

BACKGROUND

On 30 July 2002, applicant filed international application PCT/US02/24224 which claimed priority to a previous application filed 24 October 2001.

On 23 April 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); a preliminary amendment.

On 27 August 2004, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors was required, as well as, payment of the $130.00 surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date. Applicant was afforded two months to file a proper response.

On 26 October 2004, applicant filed a response including payment of the appropriate surcharge.

On 03 November 2004, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) informing applicant that the filed declaration did not comply with 37 CFR 1.497 as it was not executed by joint inventor Diego Dayan. Applicant was afforded one month to reply or the amount of extendable time remaining from the form PCT/DO/EO/905 mailed 27 August 2004.

On 03 December 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) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 3 and 4.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." The enclosed declaration of Silvina Pirraglia does not apply to the present application. While the petition states that: "Mr. Dayan also intimated that his attitude applied to all other documents to be signed" this information is not provided in the signed, firsthand account of Ms. Pirraglia. In addition, no showing has been made that in addition to a declaration, Mr. Dayan was provided with a complete set of the application papers. This is especially important in the present case as it appears that the inventor is being asked to provide signed declarations for numerous applications.

The petition also states that Ms. Pirraglia is currently unable to reach the inventor at all. MPEP Section 409.03(d) states that in cases where the inventor cannot be found, "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." Applicant has not provided any such evidence.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

28 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Joseph B. Lerch
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of	:	
LOPATIN, et al.	:	DECISION ON RENEWED
Serial No.: 10/493,737	:	
PCT No.: PCT/US02/24224	:	PETITION UNDER
Int. Filing Date: 30 July 2002	:	
Priority Date: 24 October 2001	:	37 CFR 1.47(a)
Atty Docket No.: 04224/100J948-US1	:	
For: IDENTIFICATION OF USERS ON A NETWORK	:	

This decision is in response to applicant's "Renewed Petition Pursuant to 37 C.F.R. § 1.47(a)" filed 11 April 2005.

BACKGROUND

On 23 December 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 11 April 2005, applicant filed the present renewed petition under 37 CFR 1.47(a) accompanied by a petition for a two-month extension of time and payment of the appropriate extension of time fee. Applicant's renewed petition and therefore timely filed.

DISCUSSION

As detailed in the decision mailed 23 December 2004, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

As to item (2), applicant has currently provided a firsthand statement from Ms. Silvina Pirraglia detailing that she mailed the non-signing inventor a complete set of application papers along with the declaration. To date, the inventor, Mr. Diego Dayan has not returned the executed declaration. In addition, applicant has provided a declaration from Mr. Daniel Rainer detailing his

attempts to contact Mr. Dayan to no avail. The non-return of an executed declaration after the presentation of a complete set of application papers and instructions is considered a refusal under the provisions of 37 CFR 1.47(a). As such, applicant has now satisfied all four items listed above and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 30 July 2002 under 35 U.S.C. 363, and will be given a date of **26 October 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

28 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Diego Dayan
Moldes 1139, 6B
Buenos Aires 1428
ARGENTINA

In re Application of
LOPATIN, et al.
Serial No.: 10/493,737
PCT No.: PCT/US02/24224
Int. Filing Date: 30 July 2002
Priority Date: 24 October 2001
Atty Docket No.: 04224/100J948-US1
For: IDENTIFICATION OF USERS ON A NETWORK

Dear Mr. Dayan:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

Joseph B. Lerch
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257
United States of America

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Lopatin, et al.	:	
Application No. 10/493,737	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. PORRAN 3.3-003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 22, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Lerner, David, Littenberg, Krumholz & Mentlik does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mr. Daniel Rainer
Porto Ranelli, S.A.
c/o United Virtualities, Inc.
116 West 23rd Street
Suite 500
New York, NY 10011

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 13, 2006

FILE COPY

Patent No. : 7,087,548 B2
Ser. No. : 10/493745
Inventor(s) : Piccolo, et al.
Issued : August 8, 2006
Title : **PREPARATION AND USE OF A HETEROGENEOUS RHODIUM CATALYST FOR THE HYDROGENATION OF A DOUBLE BOND OF AN α-β-UNSATURATED CARBONYL COMPOUND**
Docket No. : 02901/0201154-US0

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.

Inspection of the application for the patent reveals, however, that in connection with the alleged error pertaining to Title page, item (54) of which applicant has referred; the U.S. patent document title is determined as printed in accordance with the record in the Patent and Trademark Office. The alleged error in item 54 is in fact a change by the examiner and considered to be in accordance with the permissible amendments enumerated in M.P.E.P. 1302.04.

In view of the foregoing applicants request in this matter is hereby denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

CBN/eme

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RAJ S. DAVE
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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FEB 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,057,211	:	
Issue Date: June 6, 2006	:	
Application No. 10/493,746	:	ON PETITION
Filed: April 26, 2004	:	
Attorney Docket No. 204552032800	:	

This is a decision on the petition filed November 2, 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) 272-3204. 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.

6

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Caleb Pollack
Pearl Cohen Zedek Latzer, LLP
10 Rockefeller Plaza, Suite 1001
New York, NY 10020

19 JAN 2006

In re Application of	:	
GLUKHOVSKY, et al.	:	
Application No.: 10/493,751	:	DECISION ON PETITION
PCT No.: PCT/IL03/01080	:	
Int. Filing Date: 16 December 2003	:	UNDER 37 CFR 1.181
Priority Date: 16 December 2002	:	
For: DEVICE, SYSTEM AND METHOD FOR SELECTIVE ACTIVATION OF AN IN VIVO SENSORS	:	

This decision is in response to applicant's "Response to Notice to File Missing Parts of Application" filed 09 January 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 16 December 2003, applicant filed international application PCT/IL03/01080. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 June 2005.

On 27 April 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 executed combined declaration and power of attorney; a preliminary amendment; an assignment document for recording and an Information Disclosure Statement.

On 09 November 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of $130.00 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 09 January 2005, applicant filed the present petition accompanied by a copy of the filed combined declaration and power of attorney and a stamped postcard receipt.

DISCUSSION

A review of the application file finds the original combined declaration and power of attorney contained therein. The paper is stamped "Rec'd PCT/PTO 27 APR 2004." Thus it is clear that applicant included the executed declaration at the time of filing and there is no need to accept the copy presently provided. As such, applicant's petition under 37 CFR 1.181 is dismissed as moot.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED as moot**.

The "Notification of Missing Requirements" (Form PCT/DO/EO/905) mailed 09 November 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

01 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Richard S. Myers, Jr.
STITES & HARBISON, INC.
424 Church Street, Suite 1800
Nashville, Tennessee 37219

In re Application of: SMITH, Kevin, et al.	:	
U.S. Application No.: 10/493,754	:	DECISION ON PETITION TO
PCT No.: PCT/GB02/04728	:	CORRECT INVENTORSHIP
International Filing Date: 18 October 2002	:	
Priority Date: 27 October 2001	:	
Attorney's Docket No.: 13058N/040769	:	
For: WATER HEATER	:	

This decision is issued in response to the request to correct inventorship filed 11 January 2005, treated herein under 37 CFR 1.497(d). Applicant has paid the required petition fee.

BACKGROUND

On 18 October 2002, applicant filed international application PCT/GB02/04728 which claimed a priority date of 27 October 2001 and which designated the United States. On 08 May 2003, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB"). The published international application identified one inventor: Kevin SMITH.

The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 27 April 2004.

On 27 April 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 13 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 was required, as well as the surcharge for filing the declaration later than thirty months after the priority date and additional claims fees.

On 18 November 2004, applicant filed a response to the Notification Of Missing Requirements that included a preliminary amendment (to address the additional claims fees), payment of the surcharge for late-filing of the declaration, and a declaration executed by the inventor of record, Kevin SMITH, and an additional inventor, Nigel JONES.

On 09 December 2004, the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) stating that the filed declaration was defective because it included an inventor, Nigel JONES, who was not of record in the present application.

On 11 January 2005, applicant filed the response to the Notification Of Defective Response considered herein. The response included a request to correct the inventorship of the application so as to add Nigel JONES as an inventor of record.[1]

DISCUSSION

The declaration filed by applicants on 18 November 2004 names two inventors, Kevin SMITH and Nigel JONES. The international application herein names Kevin SMITH as the sole inventor. As noted above, the present submission seeks to add Nigel JONES as an inventor herein and thereby render the 18 November 2004 declaration acceptable under 37 CFR 1.497.

Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d).

37 CFR 1.497(d) states:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(I); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

Applicants' 11 January 2005 submission satisfies the requirements of 37 CFR 1.497(d). In compliance with 37 CFR 1.497(d)(1), applicants have submitted a statement from the added inventor, Nigel JONES, stating that the error in inventorship occurred without deceptive intent. Applicants have paid the processing fee required under 37 CFR 1.1497(d)(2). Finally, applicants have submitted a statement of consent by the assignee, which includes an identifying reference to the recorded assignment and a statement that the executing person is authorized to act on behalf

---

[1] The request references 37 CFR 1.48; however, the proper rule for correction of inventorship when filing a national stage application in 37 CFR 1.497(d). Accordingly, the request is considered below under 37 CFR 1.497(d).

of the assignee. Based on the above, applicants' request to add Nigel JONES as an inventor herein is appropriately granted. Based on this correction, the declaration filed on 18 November 2004 (which named both Kevin SMITH and Nigel JONES as inventors) is acceptable under 37 CFR 1.497.

CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**. Nigel JONES is added as an additional inventor herein.

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 **18 November 2004**.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Joseph S Tripoli
Thomson Multimedia Licensing Inc
Suite # 2
Two Independance Way
Princeton NJ 08543-5312

COPY MAILED
DEC 19 2008

In re Application of

Charles August Asmuth

Application No. 10/493,764

Filed: April 26, 2004

Attorney Docket No. PU010242

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 24, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **dismissed**.

This application was held abandoned on January 12, 2008, after it was believed that an appeal brief was not timely filed in response to the "Notice of Panel Decision from Pre-Appeal Brief Review" mailed December 11, 2007. The notice set a shortened period for reply of one month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 29, 2008, indicating that no response was received.

The instant petition maintains that an appeal brief responsive to the notice of December 11, 2007, was transmitted via facsimile on April 30, 2003. The appeal brief was accompanied by a request for an extension of time within the third month.

Section 711.03(c) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the

> actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

Fidelis Romero signed the certificate of transmission under 37 CFR 1.8, but no statement of personal knowledge from Fidelis Romero accompanied the petition. A copy of the facsimile transmission sheet noting that twenty-eight pages were transmitted to the USPTO on April 11, 2008, accompanied the petition. The evidence is, therefore, convincing that the appeal brief was timely transmitted and lost by the Office.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The petition cannot be granted, however, because a complete copy of the appeal brief is not of record in the application. It would not be expedite to send the application back to the Technology Center without the appeal brief. The renewed petition must be accompanied by a complete copy of the appeal brief that was first filed April 11, 2008.

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 regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Joseph S Tripoli
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Princeton NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of

Charles August Asmuth

Application No. 10/493,764

Filed: April 26, 2004

Attorney Docket No. PU010242

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181(a) to withdraw the holding of abandonment filed April 29, 2009.

The renewed petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 12, 2008, after it was believed that an appeal brief was not timely filed in response to the "Notice of Panel Decision from Pre-Appeal Brief Review" mailed December 11, 2007. The notice set a shortened period for reply of one month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 29, 2008, indicating that no response was received. A petition under 37 CFR 1.181 was first filed on November 24, 2008, and dismissed by a decision mailed December 19, 2008. The instant renewed petition was filed on April 29, 2009, and accompanied by a copy of the Appeal Brief that was previously filed.

By virtue of the instant renewed petition and the certificate under 37 CFR 1.8, petitioner has established that a timely response to the "Notice of Panel Decision from Pre-Appeal Brief Review" was mailed on April 11, 2008, and not received by the USPTO. It appears that the application was improperly held abandoned as a proper response was mailed prior to expiration of the maximum period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded to the Technology Center GAU 2181 for further review including review of the Appeal Brief first deposited April 11, 2008, a copy of which was filed with the instant petition.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

06 JUL 2004

#4

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Gregory D. DeGrazia
Howard and Howard Attorneys, PC
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304

In re Application of	:	
BASTICK, et al.	:	DECISION ON PETITION
Application No.: 10/493,797	:	
PCT No.: PCT/US02/17239	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 June 2002	:	
Priority Date: 07 June 2001	:	
Atty. Docket No.: 60152-1050	:	
For: OIL FILTER MOUNTING PLATE ASSEMBLY	:	

The petition to revive under 37 CFR 1.137(b) filed 27 April 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. 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 03 June 2002 under 35 U.S.C. 363 and will be given a date of **27 April 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: (703) 305-0130
Fax: (703) 308-6459

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WILLIAM H. DIPPERT
REED SMITH
599 LEXINGTON AVENUE
29TH FLOOR
NEW YORK, NY 10022-7650

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JUN 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Ilan Romem	:	
Application No. 10/493,851	:	DECISION ON PETITION
Filed: April 28, 2004	:	TO WITHDRAW
Attorney Docket No. 600204582-3UEU	:	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 July 1, 2005 and March 7, 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).

A review of the file record indicates that William H. Dippert and all the attorneys/agents listed on the attachment: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application.

Further, 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 inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3753.

Amelia Au
Petitions Examiner
Office of Petitions

cc: HEWLETT PACKARD COMPANY
PO BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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.
10/493,854	04/27/2004	Amir Belson	BEL1107U	9695

25197 7590 01/05/2010
LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK, CA 94560

EXAMINER
ANDERSON, GREGORY A

ART UNIT	PAPER NUMBER
3773	

MAIL DATE	DELIVERY MODE
01/05/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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LEARY & ASSOCIATES
3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK CA 94560

In re Application of:	:	
BELSON, AMIR	:	
Serial No.: 10/493,854	:	
Filed: April 27, 2004	:	DECISION ON PETITION
Docket: BEL1107U	:	
Title: EMBOLIC PROTECTION DEVICE	:	
	:	

This is a decision on the petition filed on December 22, 2009 seeking withdrawal of the finality of the Office action mailed February 11, 2009 and notice of abandonment mailed September 22, 2009. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed as untimely.

In the December 22, 2009 petition, the petitioner requests the finality of the Office action of February 11, 2009 be reconsidered and withdrawn because the applicant believes that the final rejection of February 11, 2009 was premature. A review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of February 11, 2009. Pursuant to 37 CFR 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the requested withdrawal of finality of the Office action of February 11, 2009 will not be granted. The holding of abandonment stands.

In view of the record, petitioner's request to withdraw the finality of the Office action dated February 11, 2009 and notice of abandonment mailed September 22, 2009 is dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

"Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS UNTIMELY.

Robert Olszewski, Director
Technology Center 3700

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3900 NEWPARK MALL RD.
THIRD FLOOR, SUITE 317
NEWARK CA 94560

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of
Amir Belson
Application No. 10/493,854
Filed: April 27, 2004
Attorney Docket No. BEL1107U

DECISION ON PETITION

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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 11, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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 regarding this application, the appropriate power of attorney document must be submitted. .

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 3773 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.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Paper No.

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APR 30 2010

OFFICE OF PETITIONS

JOHN S. PRATT
KILPATRICK STOCKTON LLP (50777)
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

In re Patent No. 7,570,887	:	DECISION ON REQUEST
Rohrer et al.	:	FOR
Issue Date: August 4, 2009	:	RECONSIDERATION OF
Application No. 10/493,855	:	PATENT TERM ADJUSTMENT
Filed: April 28, 2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
50777/300332	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 1, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred eighty-six (1386) days. For the reasons stated below, this petition is treated as a petition requesting 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 four hundred twenty-nine (1429) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred twenty-nine (1429) days is **GRANTED to the extent indicated herein.**

With regards to the "B" delay period, the over three year period begins on April 29, 2007, the day after the date three years after the date the application commenced the national stage under 35 USC 371(f) and ends on August 4, 2009, the date of patent issuance, and is 829 days. Considering the 45 day period of overlap beginning on April 29, 2009, the day after the date three years after the date the application commenced the national stage and ending on June 12, 2007, the date of mailing

of an Office action, June 12, 2007, and the 14 day period of overlap beginning on four months from the day after the date a reply was filed on February 27, 2008, and ending on July 11, 2008, the date a final Office action was mailed, the non-overlapping period of "B" delay is 770 (not 727) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred twenty-nine (1429)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,570,887 B2

DATED : **August 4, 2009** **DRAFT**

INVENTOR(S) : Rohrer 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 760 days.

Delete the phrase "by 760 days" and insert – by 1429 days--

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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OSHA LIANG L.L.P./SUN
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON TX 77010

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Florence Blanc et al	:	
Application No. 10/493,857	:	DECISION ON PETITION
Filed: April 28, 2004	:	
Attorney Docket No. 03226/463001	:	

This is a decision on the petition, filed January 6, 2009, 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final rejection mailed May 14, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 21, 2008.

Applicant files the present petition and asserts that the abandonment occurred because the Action was never received by the Applicant. Applicant provides a copy of pages from the Docketing Department Physical Log Book; Copy of Docket Sheet for the above application and copy of E-mails received between May 14, 2008 and May 27, 2008.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

<u>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.</u>

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

<u>Analysis/conclusion</u>

Petitioner states that "An Interview Summary was prepared for the referenced application on May 14, 2008, and uploaded into the Private PAIR System. The email notification of the availability of the Interview Summary on the Private PAIR System was sent to our Docketing Department on May 15, 2008. Subsequently, our Docketing Department downloaded the Interview Summary. Although the Action was also prepared on May 14, 2008, the Action was not uploaded into the Private PAIR system until May 20, 2008. Therefore, at the time that our

Docketing Department downloaded the Interview Summary, the Action was not available for download."

It appears that the petition is mainly based upon the failure of applicant not being able to download the Office Action in Private PAIR at the time of downloading the Interview Summary, because the Office Action was not uploaded into Private PAIR until May 20, 2008, and the system did not send another email notification for the Action because both documents (Action and Interview Summary) had the same notification date.

Regrettably, the petition is not grantable at this time. A showing that the Office Action mailed May 14, 2008 was not received by applicant is not convincing. A statement from practitioner attesting to the fact that the Office Action was not received at the address of record when mailing the Action on May 14, 2008, have not been established. Additionally, it is noted that a change of addressed have occurred in the above application. Applicant should advise the Office as to when the address change physically took place.

The Office requirements for granting a petition to withdraw the holding of abandonment based upon-receipt of an Office communication have been modified. The Office requires a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the U.S.P.O. The statement should establish that the docketing system is sufficiently reliable. In addition, 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.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of May 14, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a

statement that the delay was unintentional unless the entire delay, including 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 delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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OSHA LIANG L.L.P./SUN
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON TX 77010

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Florence Blanc et al	:	
Application No. 10/493,857	:	DECISION ON PETITION
Filed: April 28, 2004	:	
Attorney Docket No. 03226/463001	:	

This is a decision on the renewed petition, filed September 14, 2009, 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 reply to the final Office action mailed May 14, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 21, 2008.

Petitioner asserts that the Office action dated May 14, 2008 was not received.

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 the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2446 for re-mailing the Office action of May 14, 2008. The period for reply will run from the mailing date of the Office action.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions
571-272-3208

2 0 DEC 200

#3

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FREEDMAN & ASSOCIATES
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SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

In re Application of FELIKS J. WELFELD Serial No.: 10/493,983 PCT App. No.: PCT/CA02/00715 Int'l Filing Date: 16 May 2002 Priority Date: 17 May 2001 Attorney Docket No.: 85-04 US/PCT For: DISTRIBUTED PACKET PROCESSING SYSTEM WITH INTERNAL LOAD DISTRIBUTION	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 April 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 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 the issuance of the Notification of Missing Requirements indicating that an 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 is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

05 AUG 2004

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Marcella M. Bodner
ROHM AND HAAS COMPANY
100 Independence Mall West
Philadelphia, PA 19106-2399

In re Application of
SAKABE, Hiroshi et al
U.S. Application No.: 10/493,875
PCT No.: PCT/JP02/07659
Int. Filing Date: 29 July 2002
Priority Date: 10 August 2001
Attorney Docket No.: A01529
For: PLATEOUT-RESISTANT THERMOPLASTIC RESIN COMPOUND

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 on 28 April 2004 is hereby **GRANTED** as follows:

Applicants have paid the appropriate basic national fee of $920.00 and petition fee of $1,330.00. 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 signed oath or declaration was not included with any of the papers submitted.

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 $130.00 pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

Rec'd PCT/PTO 26 APR 2004

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference LeA35696-WO	FOR FURTHER ACTION	SeeNotificationofTransmittalofInternational Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/EP02/11743	International filing date (*day/month/year*) 21 October 2002 (21.10.02)	Priority date (*day/month/year*) 02 November 2001 (02.11.01)
International Patent Classification (IPC) or national classification and IPC A01N 47/38		
Applicant	BAYER CROPSCIENCE AG	

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 2 sheets, including this cover sheet.

   ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

   These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

   - I ☒ Basis of the report
   - II ☐ Priority
   - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   - IV ☐ Lack of unity of invention
   - V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
   - VI ☐ Certain documents cited
   - VII ☐ Certain defects in the international application
   - VIII ☐ Certain observations on the international application

Date of submission of the demand 17 March 2003 (17.03.03)	Date of completion of this report 18 June 2003 (18.06.2003)
Name and mailing address of the IPEA/EP Facsimile No.	Authorized officer Telephone No.

I. Basis of the report

The basis of international preliminary examination report is the application as originally filed.

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability

In light of the documents cited in the international search report, it is considered that the invention as defined in at least some of the claims does not appear to meet the criteria mentioned in Article 33(1) PCT, i.e. does not appear to be novel and/or to involve an inventive step (see international search report, in particular the documents cited X and/or Y and corresponding claim references).

0 5 JAN 2007

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BLAKELY SOKOLOFF TAYLOR & ZAFMANN LLP
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of WERNICKE et al	:	
U.S. Application No.: 10/493,908	:	
PCT Application No.: PCT/EP02/11914	:	
Int. Filing Date: 24 October 2002	:	
Priority Date Claimed: 24 October 2001	:	DECISION
Attorney Docket No.: 6097.P050	:	
For: STRUCTURAL MEMBER FOR MANUFACTURING A TOWER OF A WIND TURBINE	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181(a)" filed 25 May 2006.

BACKGROUND

On 24 October 2002, applicant filed international application PCT/EP02/11914, which claimed priority of an earlier Germany application filed 24 October 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 26 April 2004 (24 April 2004 was a Saturday).

On 26 April 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 07 April 2005, applicant purportedly filed an executed declaration.

On 05 October 2005, 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.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 07 April 2005. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 07 April 2005, serves as *prima facie* evidence that the declaration was received by the USPTO on 07 April 2005.

Applicant is advised that the declaration filed 07 April 2005 is improper. Specifically, the declaration is an improper composite document, consisting of one each of pages 1-3 and two of page 4. Furthermore, the two signature pages appear to have been transmitted multiple times via facsimile, unlike pages 1-3, which raises further doubt as to whether pages 1-3 were associated with pages 1-3 at the time of execution. It is not acceptable to combine pages of different declarations into a single declaration. Applicant must submit one or more complete declarations, wherein each complete declaration is presented to an executed by at least one of the inventors.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 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 Defective Response (Form PCT/DO/EO/916) indicating that a proper oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

26 MAY 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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26 MAY 2005

Julia R. Rosenthal
Morrison & Foerster, LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of LARRICK, et al. Serial No.: 10/493,909 PCT No.: PCT/US02/34197 Int. Filing Date: 25 October 2002 Priority Date: 26 October 2001 Atty Docket No.: 415142000401 For: NOVEL IMMUNOADHESINS FOR TREATING AND PREVENTING TOXICITY AND PATHOGEN-MEDIATED DISEASES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a) filed 13 April 2005 to accept the application without the signature of joint inventor James W. Larrick.

BACKGROUND

On 25 October 2002, applicant filed international application PCT/US02/34197 which claimed priority to a previous application filed 26 October 2001.

On 26 April 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); a preliminary amendment and an application data sheet.

On 13 September 2004, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors was required, as well as, payment of the $65.00 surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date. Applicant was afforded two months to file a proper response.

On 13 April 2005, applicant filed the present response including payment of the appropriate surcharge accompanied by a petition for a five-month extension of time and payment of the appropriate extension fee. As such, the current response is considered to be timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 3 and 4.

As to item (2), MPEP Section 409.03(d) states that in cases where the inventor cannot be found, "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." In addition, applicant is advised on the need to provide, "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." Applicant has not provided any such evidence. It does not appear that papers were ever directly mailed to the non-signing inventor but rather only to the corporate assignee. As such, no returned mailings have been filed with the petition nor firsthand accounts from the individual who actually attempted to provide the application papers and declaration to Dr. Larrick. In addition, applicant has not provided any firsthand accounts of attempts to locate Dr. Larrick when a signed declaration was not received nor the results of these attempts as explained above.

Regarding the statement that Dr. Larrick may be in China, applicant is reminded that the fact that an 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. AS discussed above ,the burden is on the applicant to provide sufficient evidence to show that a diligent effort was made to locate the missing inventor in order to proceed under 37 CFR 1.47.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
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29 AUG 2005

#8

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of LARRICK et al. Application No.: 10/493,909 PCT No.: PCT/US02/34197 Int. Filing: 25 October 2002 Priority Date: 26 October 2001 Attorney Docket No.: 415142000401 For: NOVEL IMMUNOADHESINS FOR TREATING AND PREVENTING TOXICITY AND PATHOGEN-MEDIATED DISEASES	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 21 July 2005.

Petitioner filed the instant response including a declaration executed by Dr. James Larrick. 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 the joint inventor and submitted on 21 July 2005 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **21 July 2005.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571)272-3286

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MAIL

JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Chris McEvilly, et al.
Application No. 10/493,928
Filed: February 1, 2005
For: DATA SWITCH

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on April 14, 2005.

A grantable request to withdraw, as agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer No. 08791 are hereby withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

cc: Sughrue Mion, PLLC
Suite 700 and 800
2100 Pennsylvania Ave. NW
Washington, D.C. 20037

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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.
10/493,933	04/28/2004	Andre Codet	BRV2-36637	9981

116 7590 06/02/2009
PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER
ALMEIDA, DEVIN E

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
06/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TECHNOLOGY CENTER 2100

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

In re Application of:
ANDRE CODET et al.
Application No. 10/493,933
Filed: APRIL 28, 2004
For: **CONTROL-ACCESS METHOD AND SYSTEM FOR TRANSMITTING SCRAMBLED DIGITAL DATA IN A DATA EXCHANGED NETWORK**

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on March 27, 2009, requesting that the shortened statutory period for reply set forth in the Office communication mailed on October 2, 2008 be restarted or, alternatively, that the period for responding be extended for three months, through April 2, 2009, with all extensions of time fees waived.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> 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.

In support of the petition, the petitioner stated that the outstanding Office Action mailed October 2, 2008 was never received at the correspondence address of record, and a search of the files of Applicants' attorney confirmed that the Office Action was not received. However, the petitioner failed to supply **a copy of docket record** that such Office Action was never received by applicants' representative.
Since the petitioner failed to provide the **copy of docket record**, he has not met the full criteria set out in MPEP § 711.03(c) for establishing failure to receive the Office Action mailed on October 2, 2008.

For the above-stated reasons, the petition is **Dismissed**. Accordingly, the shortened statutory period that was originally set forth in the Office Action mailed on October 2, 2008 will not be reset and no extension of time fees will be waived.

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612. A second point of Contact is Kim Huynh at (571)-272-4147.

Tod R Swann, WQAS 2430
Technology Center 2400
Networking, Multiplex, Cable and Security

02 SEP 2004

#3

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Marcella M. Bodner
ROHM AND HAAS COMPANY
100 Independence Mall West
Philadelphia, PA 19106-2399

In re Application of
SUZUKI, Yasuhiro et al
U.S. Application No.: 10/493,935
PCT No.: PCT/JP02/08653
Int. Filing Date: 28 August 2002
Priority Date: 28 September 2001
Attorney Docket No.: A01525
For: PROCESS FOR PRODUCING POWDERY LINEAR POLYMER HAVING IMPROVED POWDER PROPERTIES

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 on 28 April 2004 is hereby **GRANTED** as follows:

Applicants have paid the appropriate basic national fee of $920.00 and petition fee of $1,330.00. 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 signed oath or declaration was not included with any of the papers submitted.

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 $130.00 pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

1 8 NOV 2004

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Michael G. Gilman
Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

In re Application of	:	
CHAPMAN, et al.	:	DECISION ON PETITION
Application No.: 10/493,947	:	
PCT No.: PCT/NZ02/00226	:	UNDER 37 CFR 1.182
Int. Filing Date: 29 October 2002	:	
Priority Date: 29 October 2001	:	
Attorney's Docket No.: 1519-049	:	
For: IMPROVEMENTS IN AND RELATING TO	:	
BIO-DEGRADABLE FOAMED PRODUCTS	:	

This decision is response to applicant's "Response to Notice of Defective Response" filed in the United States Patent and Trademark Office (USPTO) on 28 September 2004. The petition is being treated as a petition under 37 CFR 1.182. As authorized, the $130.00 petition fee will be charged to Deposit Account No.: 07-1337.

BACKGROUND

On 23 September 2004, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the 1st listed inventor's name was different on the declaration than the name on the published international application. Applicant was afforded one month to file a proper reply.

On 28 September 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The Manual of Patent Examination Procedure (MPEP) at 605.04(c) details the procedures for proceeding where an inventor changes his or her name. It states that in cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. The petition must include an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. Applicant has not supplied either of these items. As such, it is not possible to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **DISMISSED without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** to file a proper response as detailed above. The response should be titled, "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Please direct future 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.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571 273-0459

10 MAR 2005

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William E. Beaumont
Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

In re Application of CHAPMAN, et al. Application No.: 10/493,947 PCT No.: PCT/NZ02/00226 Int. Filing Date: 29 October 2002 Priority Date: 29 October 2001 Attorney's Docket No.: 1519-049 For: IMPROVEMENTS IN AND RELATING TO BIO-DEGRADABLE FOAMED PRODUCTS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.182

This decision is response to applicant's "Response to Decision on Petition Under 37 C.F.R. 1.182" filed in the United States Patent and Trademark Office (USPTO) on 13 January 2005.

BACKGROUND

On 18 November 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.182. Applicant was afforded two months to file any request for reconsideration.

On 13 January 2005, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

The present renewed petition is accompanied by an affidavit setting forth the procedure whereby the change of name of inventor WAKE was effected; namely by marriage. The declaration is executed by Mrs. WAKE using her current married name and her maiden name. As such, it is appropriate to grant applicant's petition at this time. Further, a review of the application file reveals that with the filing of the present renewed petition, all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

The renewed petition under 37 CFR 1.182 to change the inventor's name from Maria Louise Hastings to Maria Louise Wake is **GRANTED**.

The application has an international filing date of 06 April 2001 under 35 U.S.C. 363 and will be given a date of **26 August 2004** 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 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

COPY MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of
John Bertram Greene
Application No. 10/493,961
Filed: October 19, 2004
Attorney Docket No. 089801-002600US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 10, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

A Final Office Action was mailed March 4, 2008 setting a three month period for reply. In response thereof, on August 4, 2008, with a two month extension of time, petitioners filed a Request for Continued Examination (RCE), an Information Disclosure Statement (IDS) and an amendment as the submission required by 37 CFR 1.114 . However, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed August 15, 2008, no further response having been timely filed, the application was held abandoned. Accordingly, a Notice of Abandonment was mailed May 5, 2009.

Petitioner has submitted an amendment as the submission required under 37 CFR 1.114.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is being forwarded to Technology Center 1655 for processing of the RCE filed August 4, 2008 and the amendment filed with the instant petition.

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

09 JUN 2006

In re Application of	:	
Hideaki SONODA	:	DECISION GRANTING PETITION
Application No. 10/493,973	:	TO RESET PERIOD FOR REPLY
Filed: April 29, 2004	:	
For: **SPACE DIVERSITY RECEIVER, OPERATION CONTROLL METHOD THEREOF, AND PROGRAM**	:	

This is a decision on the petition filed on March 8, 2006, requesting that the shortened statutory period for reply set forth in the Office communication mailed on February 8, 2006 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED.**

Petitioner provided a statement that the Office action was received on February 22, 2006 and further provided evidence in the way of a copy of the Office action transmittal page having a date stamped by the firm's Docketing Department as being received on February 22, 2006. Furthermore, a copy of the envelope which contained the Office action was provided evidencing a postmark date of February 21, 2006. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. The petition meets the criteria for resetting a time period to respond to an Office action as set forth in MPEP § 710.06.

Accordingly, the shortened statutory period that was originally set forth in the Office action originally mailed on February 8, 2006 is hereby reset to run THREE MONTHS FROM THE RECEIPT DATE OF February 22, 2006.

A review of the file finds that a response to the Office action was filed on May 25, 2006. Accordingly, a one month extension of time is required in order for the response to be considered timely.

The Technology Center 2600 technical support staff has been advised to charge applicant's deposit account for the one month extension of time fee. From there, the application will be forwarded to the examiner for appropriate action.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

03 MAY 2005

#8

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Stephen M. Haracz
BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104

In re Application of	:	
BONRATH, Werner *et al*	:	
U.S. Application No.: 10/494,005	:	**DECISION ON**
PCT No.: PCT/EP02/11819	:	**PETITION**
Int. Filing Date: 23 October 2002	:	**UNDER 37 CFR 1.47(a)**
Priority Date: 31 October 2001	:	
Docket No.: 20999 (C038435/0176988)	:	
For: MANUFACTURE OF α-TOCOPHEROL	:	

This is a decision on applicants' "Renewed Petition under 37 CFR §1.47" filed 26 April 2005.

BACKGROUND

On 19 April 2005, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to provide a complete declaration. Thus, item (4) of 37 CFR 1.47(a) was not satisfied.

On 26 April 2005, applicants submitted via facsimile a renewed petition which was accompanied by, *inter alia*, two declarations.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor. The 37 CFR 1.47(a) applicant satisfied items (1), (2) and (3) with the initial petition.

In the renewed petition, the 37 CFR 1.47(a) applicant submitted two complete declarations signed by four of the five named joint inventors. All of the inventor's names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of 37 CFR 1.497(a) and (b) and item (4) of 37 CFR 1.47(a).

All of the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Accordingly, the petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 23 October 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 April 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

19 APR 2005

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Stephen M. Haracz
BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104

In re Application of	:	
BONRATH, Werner *et al*	:	
U.S. Application No.: 10/494,005	:	**DECISION ON**
PCT No.: PCT/EP02/11819	:	**PETITION**
Int. Filing Date: 23 October 2002	:	**UNDER 37 CFR 1.47(a)**
Priority Date: 31 October 2001	:	
Docket No.: 20999 (C038435/0176988)	:	
For: MANUFACTURE OF α-TOCOPHEROL	:	

This is a decision on applicants' "Petition under 37 CFR §1.47" filed 07 April 2005.

BACKGROUND

On 02 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee must be provided. Applicants were given two months to respond.

On 07 April 2005, applicants submitted the subject petition which was accompanied by, *inter alia*, a petition fee of $200.00; the surcharge fee of $130.00; a two-month extension fee of $450.00; a declaration executed by four of the five named inventors"; a declaration of Stephen J. Brown titled "Statement of Facts in Support of Petition Under 37 CFR 1.47(a)"("Decl."); and Exhibits 1-8.

DISCUSSION

Petitioners allege that David Carl Burdick "refuses to join in the above-captioned application." As such, a petition under 37 CFR 1.47(a) was filed as response to the Notification of Missing Requirements.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the $200.00 petition fee has been paid.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that a joint inventor, David Carl Burdick, refuses to execute the declaration. Section 409.03(d) of the MPEP discusses a refusal to sign by an inventor and states, in part:

> A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

In his declaration, Mr. Brown indicates that a complete copy of the application was sent to Mr. Burdick at his last known address on 08 December 2004. A copy of the correspondence mailed 08 December 2004 and proof of delivery By FedEx on 09 December 2004 was provided in Exhibits 4-5. A second copy of this correspondence was mailed 08 March 2005 which was delivered by FedEx on 10 March 2005. *See* Exhibits 6-7.

Mr. Brown claims that he found the phone number corresponding to the last known address of Mr. Burdick and called this number. Mr. Brown claims that he talked to a relative of David Burdick who said that Mr. Burdick used this address to receive mail. Mr. Brown attempted to get more information on the current address of Mr. Burdick from the relative, however, "she refused to provide it." Decl. at ¶ 13. This evidence is sufficient to satisfy item (2) of 37 CFR 1.47(a).

With regard to item (3), the 37 CFR 1.47(a) applicant satisfies this requirement by listing the last known address of David Carl Burdick as:

5423 N. Isabell Avenue
Peoria, Illinois 61514

Thus, items (1), (2) and (4) of 37 CFR 1.47(a) are complete. However, petitioner has not sufficiently met the requirements for item (4) of 37 CFR 1.47(a).

Petitioner included a declaration signed by four of the five joint inventors listed on the international publication. The nonsigning co-inventor's name, residence, post office address and citizenship are typed on the declaration. Nevertheless, the declaration

does not meet the requirements of 37 CFR 1.497(a) and (b).

It appears that petitioner submitted one complete declaration and a portion of another declaration. The declaration submitted contains only one first page, one second page and two third pages. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor. Applicants must submit the complete declaration signed by each co-inventor. For this reason, item (4) of 37 CFR 1.47(a) is not satisfied.

Thus, all of the requirements of 37 CFR 1.47(a) are not yet complete.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Stephen M Haracz
Bryan Cave
1290 Avenue of the Americas
New York, NY 10104

Mail Date: 04/21/2010

Applicant	: Werner Bonrath	: DECISION ON REQUEST FOR
Patent Number	: 7626046	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/494,005	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **278** 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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FEB 19 2008

In re Application of	:	
Tegtmeier, et al.	:	
Application No. 10/494,006	:	DECISION
Filed: 28 April, 2004	:	
Attorney Docket No. JAB-1664	:	

This is a decision on the petition filed on 2 April, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 August, 2006, with reply due absent an extension of time on or before 4 November, 2006;
- the application went abandoned by operation of law after midnight 4 November, 2006;
- the Office mailed the Notice of Abandonment on 21 March, 2007;
- on 2 April, 2007, Petitioner submitted the instant petition with fee, the reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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).[2]

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.

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

And the Petitioner must be diligent in attending to the matter.[4] 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.[5]))

As to Allegations

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[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: 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.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Application No. 10/494,006

of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

Petitioner appears to have satisfied the requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 1624 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/Art Unit where that change of status must be effected.

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[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Tegtmeier, et al. :
Application No. 10/494,006 : DECISION ON PETITION
Filed: April 28, 2004 :
Attorney Docket No. JAB-1664 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2008 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned October 24, 2008 for failure to reply in a timely manner to the final Office action, mailed April 23, 2008. The final Office action set a three month shortened statutory period of time for reply. A petition for three month extension of time under 37 CFR 1.136(a) was obtained. Notice of Abandonment was mailed November 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the non-final Office action, (2) the required petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3205.

This application is being referred to Technology Center AU 1624 for further processing.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DAVID SMALL -VIKTORIA CTAW
2561 VERBENA DRIVE
HOLLYWOOD, CA 90068

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
David Small :
Application No. 10/494,024 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. None :

This is a decision in response to the petition, filed December 18, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to an Office communication mailed March 15, 2007. A Notice of Abandonment was mailed on November 21, 2007. In response, on December 18, 2007, the present petition was filed.

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 Scott A. Felder 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. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Felder desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received December 18, 2007.

[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). 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) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SCOTT A. FELDER
WILEY REIN LLP
ATTN: PATENT ADMINISTRATION
1776 K. STREET N.W.
WASHINGTON, DC 20006

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1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
APR 29 2010
OFFICE OF PETITIONS

In re Patent No. 7,596,297	:	DECISION ON REQUEST FOR
Kato	:	RECONSIDERATION OF
Issue Date: September 29, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/494,048	:	NOTICE OF INTENT TO ISSUE
Filed: May 11, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 248633US6PCT	:	

This is a decision on the petition filed on November 30, 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 seventy-six (1076) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by **one thousand seventy-five (1075) days**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on May 12, 2007, and ends on September 1, 2008, the day before the RCE was filed, and is 479 (not 480) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1075, not 1076 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is

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given **one (1) month or thirty (30) days**, whichever is longer, ~~from the mail date of this decision to respond. No extensions~~ of time will be granted under § 1.136.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand seventy-five (1075) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,596,297 B2

DATED : Sep. 29, 2009 **DRAFT**

INVENTOR(S) : Kato

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 739 days

Delete the phrase "by 739 days" and insert – by 1075 days--

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Day : Wednesday

PALM INTRANET

Date: 4/28/2010
Time: 08:10:20

PTA Calculations for Application: 10/494048

Application Filing Date:	05/11/2004	PTO Delay (PTO):	812
Issue Date of Patent:	09/29/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	73
Post-Issue Petitions:	0	Total PTA (days):	1075
PTO Delay Adjustment:	336		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	04/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	336		
74.5	09/09/2009	PTA 36 MONTHS			
74	09/29/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
73	08/26/2009	EXPORT TO FINAL DATA CAPTURE			
72	08/25/2009	DISPATCH TO FDC			
71	08/24/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
70	08/20/2009	ISSUE FEE PAYMENT VERIFIED			
69	08/20/2009	ISSUE FEE PAYMENT RECEIVED			
68	07/24/2009	FINISHED INITIAL DATA CAPTURE			
67	07/21/2009	EMAIL NOTIFICATION			
66	07/20/2009	WORKFLOW - QUERY REQUEST - FINISH			
65	07/21/2009	MAILING CORRECTED NOTICE OF ALLOWABILITY			
64	07/17/2009	CORRECTED NOTICE OF ALLOWABILITY			
63	06/26/2009	PUBS CASE REMAND TO TC			
62	07/01/2009	WORKFLOW - QUERY REQUEST - BEGIN			
61	05/22/2009	EXPORT TO INITIAL DATA CAPTURE			
58	05/21/2009	MAIL NOTICE OF ALLOWANCE			
57	05/18/2009	ISSUE REVISION COMPLETED			
56	05/18/2009	DOCUMENT VERIFICATION			
55	05/18/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	05/11/2009	NOTICE OF ALLOWABILITY			
53	03/06/2009	DATE FORWARDED TO EXAMINER			
52	02/17/2009	RESPONSE AFTER NON-FINAL ACTION			

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51	11/17/2008	ELECTRONIC REVIEW			
50	11/17/2008	EMAIL NOTIFICATION			
49	11/17/2008	MAIL NON-FINAL REJECTION			
48	11/10/2008	NON-FINAL REJECTION			
45	10/11/2008	DATE FORWARDED TO EXAMINER			
44	09/02/2008	RCE- AF PROCESSED			
43	10/11/2008	DATE FORWARDED TO EXAMINER			
42	09/02/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		32	30
41	10/11/2008	DISPOSAL FOR A RCE / CPA / R129			
40	09/02/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	09/02/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	08/22/2008	EMAIL NOTIFICATION			
37	08/22/2008	MAIL ADVISORY ACTION (PTOL - 303)			
36	08/18/2008	ADVISORY ACTION (PTOL-303)			
34	07/30/2008	DATE FORWARDED TO EXAMINER			
33	07/22/2008	AMENDMENT AFTER FINAL REJECTION			
32	05/02/2008	ELECTRONIC REVIEW			
31	05/01/2008	EMAIL NOTIFICATION			
30	05/01/2008	MAIL FINAL REJECTION (PTOL - 326)			
29	04/28/2008	FINAL REJECTION			
24	02/21/2008	DATE FORWARDED TO EXAMINER			
23	02/11/2008	RESPONSE AFTER NON-FINAL ACTION		41	19
22	02/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	10/05/2007	ELECTRONIC REVIEW			
20	10/04/2007	EMAIL NOTIFICATION			
19	10/01/2007	MAIL NON-FINAL REJECTION	812		4
18	09/04/2007	NON-FINAL REJECTION			
17	05/11/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	07/30/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	06/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	06/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	05/01/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	05/11/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			

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11.7	05/11/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/11/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/12/2006	TRANSFER INQUIRY TO GAU			
9	06/06/2005	TERMINAL DISCLAIMER FILED			
8	01/11/2005	TRANSFER INQUIRY TO GAU			
7	01/07/2005	TRANSFER INQUIRY TO GAU			
6	01/04/2005	CLEARED BY OIPE CSR			
5	01/04/2005	CLEARED BY OIPE CSR			
4	05/11/2004	371 COMPLETION DATE			
3	12/17/2004	APPLICATION DISPATCHED FROM OIPE			
2	12/17/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	05/11/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080821

DATE : August 21, 2008

TO SPE OF : ART UNIT 3683

SUBJECT : Request for Certificate of Correction on Patent No.: 7308974

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:

/ROBERT A SICONOLFI/
Supervisory Patent Examiner.Art Unit 3683

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Guy Viart et al	:	
Application No. 10/494,050	:	ON PETITION
Filed: April 29, 2004	:	
Attorney Docket No. 7792P016	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 19, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 20, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3731 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of :
Guy Viart et al :
Application No. 10/494,050 :
Filed: April 29, 2004 :
Attorney Docket No. 7792P016 :

ON PETITION

This is a decision on the petition filed March 10, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed October 3, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 4, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the formal drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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APR 05 2010

OFFICE OF PETITIONS

In re Application of :
Raymond W. Shaw et al :
Application No. 10/494,051 : ON PETITION
Filed: April 29, 2004 :
Attorney Docket No. T2211-9089US01 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 26, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the petition was not acted on prior to issuance.

The Office sincerely apologizes for any inconvenience caused petitioner regarding this matter.

In view of the above, the $130.00 petition fee and the $810.00 Request for Continued Examination (RCE) fee will be refunded to deposit account no. 50-1165, as authorization was provided.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

Attorney Docket No. T2211-9089US01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

First Named Inventor: Raymond Walter Shaw

Art Unit: 1793

Application No.: 10/494,051

Examiner: Jie Yang

Filed: September 24, 2004

Confirmation No.: 2700

For: RECOVERY OF COPPER FROM CHALCOPYRITE

* * *

PETITION UNDER 37 C.F.R. § 1.313(c)(2)
TO WITHDRAW APPLICATION FROM ISSUE

Mail Stop: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.313(c)(2), it is respectfully requested that the subject application be withdrawn from issue in favor of the accompanying Request for Continued Examination. The issue fee was paid in the subject application on February 15, 2010 and the Letters Patent is scheduled to issue on March 30, 2010.

The withdrawal of the subject application is needed to enable consideration of additional documents cited in the Information Disclosure Statement which accompanies the Request for Continued Examination.

Adjustment Date: 04/05/2010 LDIEP1
03/29/2010 INTEFSW 00007083 501165 10494051
01 FC:1464 130.00 CR
02 FC:1801 810.00 CR

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T2211-9089US01) any fees that may be required by this paper and to credit any overpayment to that Account.

Respectfully submitted,

Date: March 26, 2010

By: /Otilia Gabor/
David R. Schaffer
Reg. No. 43,089

Otilia Gabor
Reg. No. 60,217

Miles & Stockbridge, P.C.
1751 Pinnacle Drive
Suite 500
McLean, Virginia 22102-3833
(703) 903-9000

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 04/05/10

2 Serial/Patent # 10/494,051

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition		03/26/10	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other RCE		03/26/10	$ 810.00

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 1 1 6 5

10 REASON:

	Overpayment
	Duplicate Payment
	No Fee Due (Explanation):

Petition dismissed as moot.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Petitions Examiner

SIGNATURE: /Karen Creasy/ PHONE: 2-3208

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 4.5.10

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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United States Patent and Trademark Office
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Magnus Goertz	:	
Application No. 10/494,055	:	ON PETITION
Filed: April 29, 2004	:	
Attorney Docket No. 3682-40	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 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 June 13, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 14, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2629 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/494,055	04/29/2004	Magnus Goertz	3682-40

CONFIRMATION NO. 2837

OC000000025484768

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 08/21/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/28/2007.

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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

In re Application of	:	
Gunter Czech et al.	:	
Application No. 10/494,063	:	DECISION ON PETITION
Filed: January 7, 2005	:	TO WITHDRAW
Attorney Docket No. 543822006200	:	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 18, 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. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 18, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Gunter Czech**
Seeligstr. 17
Langebruck, D-01465
Germany

cc: **Patterson & Sheridan, LLP**
3040 Post Oak Boulevard, Suite 1500
Houston, TX 77056

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/494,063	01/07/2005	Gunter Czech	543822006200

CONFIRMATION NO. 2873

OC000000025714813

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/18/2007.

- 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.

Jerri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130

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OFFICE OF PETITIONS

In re Application of	:	
Albert Schapp, et al.	:	
Application No. 10/494,071	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 246152021900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 29, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on October 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. BRYAN H. DAVIDSON
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203-1808

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/494,071	09/24/2004	Albert Schaap	246152021900

CONFIRMATION NO. 8322

OC000000021387706

OC000000021387706

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/20/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091005

DATE : October 05, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7250519

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Sep-08

BRENDAN BABCOCK
384 NORMANDY CIR
NASHVILLE TN 37209

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In re Application of	:	
Brian Babcock	:	
Application Number: 10/494122	:	DECISION ON PETITION
Filing Date: 08/12/2004	:	
Attorney Docket Number: B86.2-10247-US02	:	

This is a decision on the petition filed on July 30, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on May 30, 2008, for failure to file a timely submit a proper reply to the final Office action mailed on November 29, 2007, which set a three (3) month shortened statutory period for reply. On May 29, 2008, an amendment after final rejection was filed, along with authorization to charge the fee for a petition for a three (3) month extension of time under 37 CFR 1.136(a). The amendment, however, failed to place the application in condition for allowance, and an Advisory Action Before the Filing of an Appeal Brief was mailed on June 12, 2008. Notice of Abandonment was mailed on June 18, 2008.

---

[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 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)).

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 1794 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
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Mail Date: 04/21/2010

Applicant	: Bo Sandstrom	: DECISION ON REQUEST FOR
Patent Number	: 7571665	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/494,130	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1463** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

26 AUG 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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In re Application of	:	
KORNFELD, et al.	:	DECISION ON PETITION
Serial No.: 10/494,147	:	
PCT No.: PCT/EP02/12095	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 30 October 2002	:	
Priority Date: 31 October 2001	:	
Atty Docket No.: KORNFELD ET AL.-5 PCT	:	
For: PLASMA ACCELERATOR SYSTEM	:	

This decision is in response to the petition under 37 CFR 1.47(a) filed 29 April 2004 to accept the application without the signature of joint inventor Gregory Emsellem.

BACKGROUND

On 30 October 2002, applicant filed international application PCT/EP02/12095 which claimed priority to a previous application filed 31 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 May 2003. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 April 2004.

On 29 April 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); a preliminary amendment; a translation of the International Application into English; a combined declaration and power of attorney executed by Gunter Kornfeld and Gregory Coustou on their own behalf and on behalf of the non-signing joint inventor Gregory Emsellem; and the present petition discussed below.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 3 and 4.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "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." The statement of facts from Dr. Gunter Kornfeld and copy of the returned envelope do not satisfy this item. Dr. Kornfeld states that inquires were made in an effort to find Dr. Emsellem; however DR. Kornfeld does not detail these inquires nor has applicant included any evidence of what these efforts were. For example, applicant should include the results of any internet or telephone directory searches which were performed in an effort to locate the non-signing inventor. In addition, applicant should include a statement from the individual who made these inquires.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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05 MAY 2005

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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In re Application of	:	
KORNFELD, et al.	:	DECISION ON PETITION
Serial No.: 10/494,147	:	
PCT No.: PCT/EP02/12095	:	UNDER 37 CFR 1.181 AND
Int. Filing Date: 30 October 2002	:	
Priority Date: 31 October 2001	:	RENEWED PETITION UNDER
Atty Docket No.: KORNFELD ET AL.-5 PCT	:	
For: PLASMA ACCELERATOR SYSTEM	:	37 CFR 1.47(a)

This decision is in response to applicant's "Re-submission of Renewed Petition under 37 C.F.R. § 1.47(a)" filed 03 May 2005 in the United States Patent and Trademark Office (USPTO). As discussed in detail below, the submission is being treated as a petition under 37 CFR 1.181 regarding proof of earlier filing and as renewed petition under 37 CFR 1.47(a) as to the status of inventor Gregory Emsellem. No additional petition fee is required.

BACKGROUND

On 26 August 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file a request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 03 May 2005, applicant filed the present response.

DISCUSSION

I. Petition Under 37 CFR 1.181

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "DT14 Rec'd PCT/PTO 26 NOV 2004." The postcard details the applicants, serial number and title of the present National stage application and clearly identifies in part: "Renewed Petition under 37 C.F.R. 1.47(a) and Declaration executed by all three inventors." The evidence is sufficient to establish that the renewed petition and combined declaration and power of attorney was received in the USPTO on 26 November 2004. Applicant has certified that the presently filed copy of the declaration is a true and complete copy of the papers originally filed on 26 November 2004. As such, it is proper to **GRANT** applicant's petition at this time to accept the presently filed papers as having been filed on 26 November 2004.

In addition, the papers contain a petition for a one-month extension of time and check for $110.00 as payment of the extension fee. A review of the fee record for the present application finds that this payment has been made. Therefore, the response of 26 November 2004 is considered a timely response to the decision mailed 26 August 2004.

II. Renewed Petition Under 37 CFR 1.47(a)

A review of the papers finds that applicant has presently filed a supplemental declaration executed by the previously non-signing inventor, Gregory Emsellem and has therefore satisfied all of the requirements under 35 U.S.C. 371 for entry in to the National stage in the United States. Since applicant has provided an executed declaration by Mr. Emsellem, the renewed petition under 37 CFR 1.47(a) is dismissed as moot.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**, as moot.

The application has an international filing date of 30 October 2002 under 35 U.S.C. 363 and will be given a date of **26 November 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.

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