03 JUN 2005

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ATLANTA, GA 30339-5948

In re Application of LOINTIER et al :
U.S. Application No.: 10/500,228 :
PCT Application No.: PCT/FR02/04589 :
Int. Filing Date: 30 December 2002 :
Priority Date Claimed: 28 December 2001 : DECISION
Attorney Docket No.: 80350-1230 :
For: MULTIPLE-POUCH INTRAGASTRIC BALLOON, SURGICAL DEVICE FOR EXPANDING SAID BALLOON AND METHOD FOR MAKING SAME :

This is in response to applicant's "Petition Under 37 C.F.R. §1.47(a) Regarding Uncooperative Inventor" filed 11 May 2005.

BACKGROUND

On 30 December 2002, applicant filed international application PCT/FR02/04589, which claimed priority of an earlier France application filed 28 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004.

On 25 June 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 16 November 2004, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 May 2005, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where 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 Alain Jean Charles Verdier refuses to sign the application papers. The petition does not adequately demonstrate that a bona fide attempt was made to present a copy of the application papers to Verdier for signature. The copy of the letter purportedly sent to Verdier on 29 December 2004 will not be considered until an appropriate English translation is provided. Furthermore, the petition does not provide sufficient evidence of Verdier's purported refusal to sign. In particular, the petition does not include affidavits from the various people with firsthand knowledge of the alleged attempts to secure Verdier's signature. Thus, it would not be reasonable to conclude at the present time that Verdier 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 does not state 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.

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06 MAR 2006

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In re Application of LOINTIER et al :
U.S. Application No.: 10/500,228 :
PCT Application No.: PCT/FR02/04589 :
Int. Filing Date: 30 December 2002 :
Priority Date Claimed: 28 December 2001 : DECISION
Attorney Docket No.: 80350-1230 :
For: MULTIPLE-POUCH INTRAGASTRIC :
BALLOON, SURGICAL DEVICE FOR :
EXPANDING SAID BALLOON AND :
METHOD FOR MAKING SAME :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(a) " filed 23 December 2005.

BACKGROUND

On 30 December 2002, applicant filed international application PCT/FR02/04589, which claimed priority of an earlier France application filed 28 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004.

On 25 June 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 16 November 2004, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 03 June 2005, this Office mailed a decision dismissing the 11 May 2005 petition.

On 23 December 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) and (3) 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 Alain Jean Charles Verdier refuses to sign the application papers. The petition does not adequately demonstrate that a bona fide attempt was made to present a copy of the application papers to Verdier for signature. The copy of the letter purportedly sent to Verdier on 29 December 2004 will not be considered until an appropriate English translation is provided. Furthermore, the petition does not provide sufficient evidence of Verdier's purported refusal to sign. In particular, the petition does not include affidavits from the various people with firsthand knowledge of the alleged attempts to secure Verdier's signature. The copy of the 20 June 2005 agreement signed by Verdier fails to identify the present application. Furthermore, the agreement merely indicates that Verdier has renounced his rights to the invention, not that he refuses to sign the application papers. Additionally, the statement in

the agreement and in the petition that Verdier is not in a position to claim scientific or technical contribution raises the question as to whether Verdier is properly named as an inventor in the present application. If Verdier is not an inventor, a proper petition under 37 CFR 1.497(d) should be filed. For the reasons above, it would not be reasonable to conclude at the present time that Verdier refuses to join in the application.

With regard to item (4) above, the petition does not state the last known address of the nonsigning inventor.

CONCLUSION

For the reasons 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. 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.

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09 MAY 2006

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In re Application of LOINTIER et al
U.S. Application No.: 10/500,228
PCT Application No.: PCT/FR02/04589
Int. Filing Date: 30 December 2002
Priority Date Claimed: 28 December 2001
Attorney Docket No.: 80350-1230
For: MULTIPLE-POUCH INTRAGASTRIC BALLOON, SURGICAL DEVICE FOR EXPANDING SAID BALLOON AND METHOD FOR MAKING SAME

DECISION

This is in response to applicant's "Response to Renewed Petition Under 37 C.F.R. §1.47(a) and Petition to Delete Inventor Under 37 C.F.R. §1.497(d)" filed 25 March 2006.

BACKGROUND

On 30 December 2002, applicant filed international application PCT/FR02/04589, which claimed priority of an earlier France application filed 28 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004.

On 25 June 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 16 November 2004, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 03 June 2005, this Office mailed a decision dismissing the 11 May 2005 petition.

On 23 December 2005, applicant filed a renewed petition under 37 CFR 1.47(a).

On 06 March 2006, this Office mailed a decision dismissing the 23 December 2005 renewed petition.

On 25 March 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

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

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR 3.73(b) of this chapter).

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

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 20-0778 as authorized in the petition.

With regard to item (3) above, proper written consent of the purported assignee has not been provided. In particular, the statement of consent does not identify the person signing. Furthermore, the statement of consent lacks one of: (1) apparent authority of the executor, by virtue of title (e.g. President, Vice President, Secretary, etc.), to sign on behalf of the assignee or (2) a statement that the person signing is authorized to act on behalf of the assignee.

It is further noted that the declaration filed 11 May 2005 and the assignment agreement filed with the present petition are not acceptable because each improperly lists Alain Jean Charles Verdier as an inventor. A newly executed declaration and assignment must be submitted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. 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 1.497(d)". 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.

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25 JUL 2006

#11

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In re Application of LOINTIER et al	:	
U.S. Application No.: 10/500,228	:	
PCT Application No.: PCT/FR02/04589	:	
Int. Filing Date: 30 December 2002	:	
Priority Date Claimed: 28 December 2001	:	DECISION
Attorney Docket No.: 80350-1230	:	
For: MULTIPLE-POUCH INTRAGASTRIC BALLOON, SURGICAL DEVICE FOR EXPANDING SAID BALLOON AND METHOD FOR MAKING SAME	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.497(d)" filed 10 July 2006.

BACKGROUND

On 30 December 2002, applicant filed international application PCT/FR02/04589, which claimed priority of an earlier France application filed 28 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004.

On 25 June 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 16 November 2004, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 03 June 2005, this Office mailed a decision dismissing the 11 May 2005 petition.

On 23 December 2005, applicant filed a renewed petition under 37 CFR 1.47(a).

On 06 March 2006, this Office mailed a decision dismissing the 23 December 2005 renewed petition.

On 25 March 2006, applicant filed a petition under 37 CFR 1.497(d).

On 09 May 2006, this Office mailed a decision dismissing the 25 March 2006 petition.

On 10 July 2006, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

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

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR 3.73(b) of this chapter).

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, proper written consent of the purported assignee has been provided (see "Consent of Assignee to Deletion of Inventor").

Applicant is advised that the declaration and assignment filed with the renewed petition are improper. Specifically, the declaration and assignment are composite documents formed by using multiple signature pages. Where individual declarations/assignments are executed, they must be submitted as individual declarations/assignments rather than combined into one declaration/assignment. See MPEP 201.03.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) 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), which should indicate that the declaration filed 10 July 2006 is defective as discussed above.

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10 JUN 2005

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In re Application of	:
Birzer, et al.	:
Application No.: 10/500,229	:
PCT No.: PCT/DE02/04744	:
Int. Filing Date: 27 December 2002	: DECISION
Priority Date: 28 December 2001	:
Attorney's Docket No.: 1140668-0066	:
For: AUTOMATION SYSTEM AND METHOD FOR MOVEMENT CONTROL OF AT LEAST ONE MOVEABLE MACHINE ELEMENT	:

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed on the 12 April 2005 indicating that the Notice of Acceptance (form PCT/DO/EO/903) and the filing receipt incorrectly identifies the completion of all 35 U.S.C. 371 requirements.

BACKGROUND

On 27 December 2002, applicant filed international application PCT/DE02/04744 that claimed priority of an earlier German application filed 28 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 28 June 2004.

On 25 June 2004, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, authorization to charge the basic national fee of $920 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/500,229.

On 04 March 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903). This notice indicated that the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (2) and (4) was 25 June 2004.

On 12 April 2005, applicant filed the current response indicating that the requirements of 35 U.S.C. 371 were not completed upon filing due to the fact that a signed declaration was not filed. Applicant included a signed declaration with this response.

DISCUSSION

A review of the application file reveals that applicant did not have a proper oath/declaration in the application when 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) was mailed on 25 June 2004. Therefore, the form PCT/DO/EO/903 mailed 25 June 2004 is hereby VACATED.

CONCLUSION

The petition 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 25 June 2004 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) having a date of 12 April 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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OFFICE OF PETITIONS

In re Application of

Delhomme, et al.

Application No. 10/500,256

Filed: December 14, 2004

Attorney Docket No. 21.1017US

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment under 37 CFR 1.137(a) of (b)", filed June 16, 2006. The petition will be treated under 37 CFR 1.181.

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

This application was held abandoned on January 29, 2006, after it was believed that no response was received to the final Office action mailed October 28, 2005. The final Office action allowed a shortened statutory period for reply of three-months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on June 6, 2006, indicating that a reply to Office action was not received.

The instant petition maintains that a Request for Continued Examination (RCE) responsive to the Office action was transmitted via facsimile on April 19, 2006. A copy of the RCE containing a certificate of facsimile transmission dated April 19, 2006, and a copy of the auto-reply facsimile transmission sheet whereby the UPSTO acknowledged receiving seven pages in the above-cited application on April 19, 2006, accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Deposit account 50-2183 will be charged $1,020.00 for the extension of time within the third month necessary to make the RCE timely and $790.00 for the fee of the Request for Continued Examination.

The application file is being forwarded Technology Center 2800 GAU 2862, for further processing

including the consideration of the copy of the Request for Continued Examination filed June 16, 2006, which will be noted as having been timely received.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

28 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
BEARDOW, PAUL :
Application No.: 10/500,260 :
PCT No.: PCT/GB02/05609 :
Int. Filing Date: 11 Dec 2002 : DECISION
Priority Date: 11 Dec 2001 :
Attorney's Docket No.: 22557-3013/ US :
For: Method and Apparatus for Image Construction :
And Animation :

This decision is in response to applicant's "Request for Correction of Filing Receipt and Notification of Acceptance of Application Under 35 U.S.C. 371" filed 30 March 2006, requesting correction of the 371(c) filing date which is being treated as a petition under 37 C.F.R. 1.10(d) to accord a 371(c) filing date of 14 June 2004 to the above-identified application. No petition fee is required.

BACKGROUND

The United States Patent and Trademark Office in its capacity as a Designated/Elected Office (DO/EO) accorded a 371(c) filing date of 15 June 2004 to the above-identified application.

On 13 September 2005 applicant allegedly filed a "Request for Correction of Filing Receipt and Notification of Acceptance of Application Under 35 U.S.C. 371." However, the United States Patent and Trademark Office does not have a record of applicant's filing and applicant has not provided evidence that such a filing has occurred.

On 30 March 2006, applicant filed a subsequent "Request for Correction of Filing Receipt and Notification of Acceptance of Application Under 35 U.S.C. 371" which included a copy of the original papers filed on 13 September 2005. Specifically, applicant filed a copy of the request to enter the national stage showing an "Express Mail" label number ER946868273US, a copy of the postcard receipt showing a receipt date of 15 June 2004, a copy of a United States Postal Service letter indicating that no information could be located regarding item number ER946868273US and, a copy of an "Express Mail Log" page.

DISCUSSION

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that 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.

The instant petition complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing number, ER946868273US, appears on the copy of the request to enter the national stage.

With regard to 37 CFR 1.10(d)(3), petitioner explains that the papers were deposited in an USPS Express Mail drop box located at the intersection of Broadway and 25th Street at 2:40 PM on the afternoon of 11 June 2004. Petitioner provides a copy of the "Express Mail Log" page showing the Express Mail mailing number, the place, date and time of the deposit, the last scheduled pick-up for that date, the depositor's signature and the date and time of entry into the log. The entry into the "Express Mail Log" is deemed to be an adequate showing of the date of deposit.

However, because applicant did not make the deposit directly with an USPS employee it is unclear what is the actual "date-in" date. See 37 C.F.R. 1.10(b). Applicant is required to provide further evidence from the USPS as to the date and time when the pick-up was actually executed by the USPS subsequent to the date and time of deposit of 11 June 2004 at 2:40 PM.

Based on the totality of the evidence currently of record, it would not be appropriate to consider the requirements of 37 C.F.R. 1.10(d) to have been satisfied.

CONCLUSION

Applicant's petition requesting that the application papers be accorded a 371(c) filing date of **14 June 2004** is **DISMISSED**, without prejudice, for the reasons described *supra*.

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 1.10(d)." 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, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208

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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

STEVEN LIESKE
OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MI 55402

In re Application of:
BEARDOW, Paul
U.S. Application No.: 10/500,260
PCT No.: PCT/GB02/05609
International Filing Date: 11 December 2002
Priority Date: 11 December 2001
Atty Docket No.: 22557-3013/US
For: METHOD AND APPARATUS FOR IMAGE CONSTRUCTION AND ANIMATION

DECISION ON RENEWED PETITION
(37 CFR 1.10(d))

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.10" filed 30 July 2007. No additional petition fee is required.

BACKGROUND

On 11 December 2002, applicant filed international application PCT/GB02/05609. The application claimed a priority date of 11 December 2002, and it designated the United States. On 19 June 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 14 June 2004 (11 June 2004 was a federal holiday, and 12-13 June 2004 was a weekend).

In June 2004, applicant filed via "Express Mail" a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an executed declaration. The USPTO assigned the submission a filing date of 15 June 2004.

On 10 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) and a filing receipt that identified the 35 U.S.C. 371(c) date as 15 June 2004.

On 30 March 2006, applicants filed a petition under 37 CFR 1.10(d) seeking correction of the 35 U.S.C. 371(c) date to 14 June 2004.[1] The petition asserted that the "Express Mail" envelope containing the materials filed to initiate the present national stage application was deposited in a USPS "Express Mail" drop box on 11 June 2004 (a federal holiday), and that the

[1] Applicant asserts that this petition was originally submitted on 13 September 2005.

filing date for these materials should therefore be corrected to 14 June 2004 (the following Monday, which was the next business day after the deposit).

On 28 March 2007, this Office mailed a decision dismissing applicant's petition for failure to satisfy the requirements of 37 CFR 1.10(d). Specifically, the decision required applicant to provide additional evidence from the USPS to determine when the USPS pick-up was made at the box used by applicant.

On 30 July 2007, applicant filed the renewed petition considered herein (with required two-month extension fee).

DISCUSSION

The renewed petition includes a statement from counsel that, in a conversation with a USPS mail carrier that services the drop box at issue, the carrier confirmed that "the box always has pick-ups on Monday-Friday." The petition also states that efforts to get additional materials from the USPS have been unsuccessful.

Based on the materials provided herein and with the original petition, it is concluded that applicants have made an acceptable showing that the materials filed to initiate the present international application were deposited with the USPS on 11 June 2004, prior to the final scheduled pick-up on the next business day, that is, 14 June 2004. Accordingly, applicants have satisfied the final requirement for a grantable petition under 37 CFR 1.10(d).

Based on the above, the filing date for the materials filed to initiate the present national stage application is appropriately corrected to 14 June 2004, prior to the expiration of thirty months from the priority date. Because this submission included the materials required to satisfy 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), the correct date under 35 U.S.C. 371(c) for the present application is 14 June 2004.

The Notification of Acceptance and filing receipt mailed 10 December 2004, both of which identified the 35 U.S.C. 371(c) date as 15 June 2004, are appropriately vacated. A corrected Notification of Acceptance and filing receipt will be issued properly identifying the date under 35 U.S.C. 371(c) as 14 June 2004.

CONCLUSION

The renewed petition under 37 CFR 1.10(d) is **GRANTED**. The materials initiating the present international application, including the basic national fee and the declaration, will be accorded a filing date of 14 June 2004.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 10 December 2004 are hereby vacated.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuing of

a corrected Notification of Acceptance and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 14 June 2004.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
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7/9/08

Patent No. :7364495
Ser. No. :10500278
Inventor(s) :HIROYOSHI TOMINAGA: TOSHIYUKI HAYASHI
Issued : 9/4/07
Title : HANDLNG 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
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VIRGINIA 22320-4850

HR

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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MAR 2 6 2009

OFFICE OF PETITIONS

In re Patent No. 7,364,495 :
Application No. 10/500,278 :
Filed: June 29, 2004 : ON PETITION
Issued: April 29, 2008 :
Attorney Docket No. 120214 :

This is a decision on the petition filed August 18, 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**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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 may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

27 MAY 2005

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FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153

In re Application of KNIGHTS et al	:	
U.S. Application No.: 10/500,318	:	
PCT Application No.: PCT/GB02/05930	:	DECISION
Int. Filing Date: 27 December 2002	:	
Priority Date Claimed: 27 December 2001	:	
Attorney Docket No.: SGU-0068	:	
For: AN IN-LINE LIGHT SENSOR	:	

This is in response to applicant's "Petition to Accept Declaration of an Application Without the Signature of a Refusing Inventor Under 37 C.F.R. § 1.47 and MPEP § 409.03(a)" filed 09 May 2005.

BACKGROUND

On 27 December 2002, applicant filed international application PCT/GB02/05930, which claimed priority of an earlier United Kingdom application filed 27 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 24 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004 (27 June 2004 was a Sunday).

On 28 June 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 11 January 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.

On 09 May 2005, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted declarations signed by the available inventors each on his own behalf and on behalf of the nonsigning inventor Adrian Vonsovici.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that inventor Vonsovici refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Vonsovici for signature (see affidavit of Haydn Jones, ¶3). However, the petition does not sufficiently establish that Vonsovici refuses to sign. Specifically, the electronic mail communication from Vonsovici dated 08 February 2005 appears to indicate that Vonsovici would be willing to sign under certain conditions. Furthermore, the electronic mail reply dated 24 February 2005 does not set a response date and does not indicate that a failure to respond, without conditions, by the established date will be treated as a refusal to sign. Thus, it would not be reasonable to conclude at the present time that Vonsovici refuses to join in the application.

With regard to item (3) above, applicant has provided $130.00 towards the requisite petition fee. Applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. $70.00 will be charged to Deposit Account No. 16-0607 as authorized by applicant.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

29 AUG 2005

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#11

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153

In re Application of KNIGHTS et al	:	
U.S. Application No.: 10/500,318	:	
PCT Application No.: PCT/GB02/05930	:	DECISION
Int. Filing Date: 27 December 2002	:	
Priority Date Claimed: 27 December 2001	:	
Attorney Docket No.: SGU-0068	:	
For: AN IN-LINE LIGHT SENSOR	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 10 August 2005.

BACKGROUND

On 27 December 2002, applicant filed international application PCT/GB02/05930, which claimed priority of an earlier United Kingdom application filed 27 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 24 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004 (27 June 2004 was a Sunday).

On 28 June 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 11 January 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.

On 09 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 27 May 2005, this Office mailed a decision dismissing the 09 May 2005 petition.

On 10 August 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 renewed petition states that inventor Vonsovici refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Vonsovici for signature (see 04 May 2005 affidavit of Haydn Jones, ¶3). Furthermore, the petition sufficiently establishes that Vonsovici refuses to sign. Specifically, a letter was mailed to Vonsovici on 27 June 2005 and received on 28 June 2005 (see 03 August 2005 affidavit of Haydn Jones, ¶¶3,4). Such letter required Vonsovici to respond unconditionally within 30 days, yet no response was received (see Jones' 03 August 2005 affidavit, ¶4). Thus, it can be concluded with reasonable certainty that Vonsovici refuses to join in the application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 December 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 09 May 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

29 AUG 2005

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Adrian Vonsovici
59 Runnymede, Merton Abbey
London
SW19 2PG
United Kingdom

In re Application of KNIGHTS et al
U.S. Application No.: 10/500,318
PCT Application No.: PCT/GB02/05930
Int. Filing Date: 27 December 2002
Priority Date Claimed: 27 December 2001
For: AN IN-LINE LIGHT SENSOR

Dear Adrian Vonsovici:

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153

Attorney Docket No.: SGU-0068

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JUL 10 2007

OFFICE OF PETITIONS

Arnold & Porter LLP
555 Twelfth Street N.W.
Washington DC 20004-01206

In re Application of
Tsukamato et al.
Application No. 10/500,319
Patent No.: 7,148,250
Filed: November 22, 2004
Attorney Docket No/20595.128

: DECISION GRANTING PETITION

This decision is in response to applicants' "Application for Patent Term Adjustment Under 37 CFR 1.705 filed Feb. 9, 2007requesting that the Office adjust the Patent Term Adjustment from a determination at the time of the issuance of the patent from eighty-three(83) days to one hundred and twenty three-days (123) days.

The applicants' request for an adjustment is **GRANTED.** The Office will *sua sponte* issue a certificate of correction making the adjustment change from eighty-three (83) days to (123) days. The Office will also change the PAIR determination to be consistent with this decision.

The applicants contest the reduction of patent term of forty (40) days after the mailing of the notice of allowance for the submission of an IDS. Applicants argue that the IDS was in fact submitted on June 28, 2004 and October 15, 2004, prior to the mail date of the notice of allowances.

Applicants arguments are persuasive. Applicants did not file an IDS after the mail date of the notice of allowance. Accordingly, the 40 day reduction after the mail date of the notice of allowance is in error. Applicant submitted an amendment pursuant to 37 CFR 1.312 on September 29, 2006 that was responded to by the USPTO on November 2, 2006, a thirty-five day delay. Accordingly, the Office delayed 158 days pursuant to 37 CFR 1.702(a)(1) and applicants delayed 35 days under 37 CFR 1.704(c)(10). Overall, the correct amount of PTA at the time of the mailing of the issuance of the patent is 123 days.

Applicants have submitted the $200.00 fee. No additional fees are required to determined the application for patent term adjustment.

After the mailing of this decision, the Office will forward this application to the Certificate of Correction branch for a prompt issuance of the certificate of correction.

Any questions concerning this decision should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commission of Patent Examination Policy, at 571-272-7757.

Kery A. Fries

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

cc: Adjusted Pair Calculation
Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT	:	7,148,250 B1
DATED	:	Dec. 12, 2006
INVENTOR(S)	:	Tsukamato 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 (83) days

Delete the phrase "by 83 days" and insert – by 123 days--

PALM INTRANET

Day : Monday
Date: 7/9/2007
Time: 15:00:17

PTA Calculations for Application: 10/500319			
Application Filing Date:	11/22/2004	PTO Delay (PTO):	158
Issue Date of Patent:	12/12/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	75
Post-Issue Petitions:	0	Total PTA (days):	123
PTO Delay Adjustment:	40		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	07/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	40		
51	12/12/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
50	11/13/2006	EXPORT TO FINAL DATA CAPTURE			
49	11/10/2006	DISPATCH TO FDC			
48	09/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	10/31/2006	FINISHED INITIAL DATA CAPTURE			
46	11/02/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
45	10/30/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
44	09/29/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		35	46
43	09/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		40	
42	10/03/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
41	09/29/2006	ISSUE FEE PAYMENT VERIFIED			
40	09/29/2006	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
39	09/21/2006	WORKFLOW - QUERY REQUEST - FINISH			
38	09/08/2006	TC RETURN TO PUBS			
37	08/11/2006	PUBS CASE REMAND TO TC			
36	09/05/2006	TC RETURN TO PUBS			
35	08/11/2006	PUBS CASE REMAND TO TC			
34	08/23/2006	WORKFLOW - QUERY REQUEST - BEGIN			
33	07/31/2006	RESPONSE TO REASONS FOR ALLOWANCE			
32	07/03/2006	EXPORT TO INITIAL DATA CAPTURE			

31	07/03/2006	EXPORT TO INITIAL DATA CAPTURE			
30	07/03/2006	EXPORT TO INITIAL DATA CAPTURE			
29	06/29/2006	MAIL NOTICE OF ALLOWANCE	158		-1
28	06/29/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
27	06/29/2006	MAIL EXAMINER'S AMENDMENT			
26	06/26/2006	ISSUE REVISION COMPLETED			
25	06/26/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
24	06/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	06/22/2006	EXAMINER'S AMENDMENT COMMUNICATION			
22	06/22/2006	NOTICE OF ALLOWABILITY			
21	06/15/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
20	11/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	11/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	05/15/2006	CORRESPONDENCE ADDRESS CHANGE			
17	06/27/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	06/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	11/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/22/2004	REFERENCE CAPTURE ON IDS			
13	11/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	01/10/2005	CLEARED BY OIPE CSR			
11	01/10/2005	CLEARED BY OIPE CSR			
10	01/10/2005	CLEARED BY OIPE CSR			
9	01/10/2005	CLEARED BY OIPE CSR			
8	12/31/2004	CLEARED BY OIPE CSR			
7	11/22/2004	371 COMPLETION DATE			
6	12/15/2004	APPLICATION DISPATCHED FROM OIPE			
5	12/15/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	11/22/2004	ADDITIONAL APPLICATION FILING FEES			
3	11/22/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Luca Vinci, et al.	:	
Application No. 10/500,331	:	DECISION GRANTING PETITION
Filed: June 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07552.0033	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 22, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 15, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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.*

28 SEP 2004

#7

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Nicolas E. Seckel
WESTERMAN, HATTORI, DANIELS
& ADRIAN, L.L.P.
1250 Connecticut Avenue, N.S.
Suite 700
Washington, DC 20036

In re Application of :
Adolphe Richard DZIULKO, et al. :
Application No.: 10/500,333 : DECISION ON
PCT No.: PCT/FR02/04191 : PETITION
Int. Filing Date: 05 December 2002 : UNDER 37 CFR 1.137(b)
Priority Date: 13 December 2001 :
Attorney Docket No.: 042536 :
For: WORLDWIDE SOLAR CALENDAR :
AND PHASES OF THE MOON ON :
WATCHES :

The petition to revive under 37 CFR 1.137(b) filed 28 June 2004 in the above-captioned application is hereby **GRANTED** as follows:

On 05 December 2002, applicants filed international application PCT/FR02/04191, which claimed priority of an earlier French application filed 13 December 2001. The application became abandoned as to the national stage in the United States because the basic national fee was not paid to the USPTO prior to the 30 months statutory time period, which expired at midnight on Monday 14 June 2004.

On 28 June 2004, applicants filed the present petition, requesting revival of the international application under the provisions of 37 CFR 1.137(b) along with the appropriate petition fee as required by 37 CFR 1.17(m) for a small entity.

A review of the application papers filed 28 June 2004 reveals that all of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "the above-identified application was unintentionally abandoned" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

A review of the declaration of the inventors filed with the petition reveals that it is not in compliance with 37 CFR 1.497. The citizenship of the second inventor was not listed on the declaration. Since the translation of the international application and the declaration of the inventors were submitted after 30 months from the priority date claimed of 13 December 2001, an amount of $195.00, including $130.00 processing fee (fee code 1618) for submitting a translation after 30 months and $65.00 surcharge (fee code 2617) for filing an oath or declaration after 30 months, will be charged to Counsel's Deposit Account No. 50-2866, as authorized in the Transmittal Letter accompanying this petition.

Applicants' claim for priority is acknowledged. The application has an international filing date of **05 December 2002** under 35 U.S.C. 363.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for further processing, including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) to inform applicant that a declaration in compliance with 37 CFR 1.497 must be submitted in order to avoid abandonment of the application as to the national stage in the United States.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

NNH/LES:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

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MAY 23 2005

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

In re Application of	:
Jia-He Li et al	:
Serial No.: 10/500,340	: STATUS LETTER
Filed: August 18, 2004	:
Attorney Docket No.: 2824-248	:

This is in response to applicants' attorneys' request, filed May 3, 2005, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

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

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

27 JAN 2005

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William Michael Hynes
Townsend and Townsend and Crew
Two Embarcadero Center
8th Floor
San Francisco, CA 94111

In re Application of :
IORDANESCU et al. :
U.S. Application No.: 10/500,342 :
PCT No.: PCT/US02/40641 : DECISION
Int. Filing Date: 18 December 2002 :
Priority Date: 27 December 2001 :
Attorney's Docket No.: 015280-457100US :
For: AUTOMATED CENTERLINE DETECTION ALGORITHM FOR COLON-LIKE 3D SURFACES :

This decision is in response to applicants' "Notification of Error in Small Entity Status and Payment of Deficiency Owed under 37 CFR 1.28(c)" filed 30 December 2004. No petition fee is required.

BACKGROUND

On 18 December 2002, applicants filed international application PCT/US02/40641 which claimed priority date of 27 December 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 international filing date, 27 June 2004.

On 24 June 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee; a copy of the international application; and an application data sheet.

On 01 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 30 December 2004, applicants filed "Notification of Error in Small Entity Status and Payment of Deficiency Owed under 37 CFR 1.28(c)" and an executed declaration.

DISCUSSION

Applicants state in "Notification of Error in Small Entity Status and Payment of Deficiency Owed under 37 CFR 1.28(c)" that "[t]he above-identified application filed on June 24, 2004 originally claimed small entity status . . . it has recently been discovered that such status as a small entity was established in error due to inadvertence and without deceptive intent."

37 CFR 1.28(c) provides:

> that if small entity status is established in good faith and the small entity fees are paid in good faith, and it later discovered that such status as a small entity was established in error or through the Office was not notified of a change, the error will be excused upon compliance with the separate submission and itemization requirements of 37 CFR 1.28(c)(1) and (c)(2) and the deficiency payment requirement of 37 CFR 1.28(c)(2) is calculated using the date on which deficiency was paid in full.

Applicants have fulfilled the requirements set forth in 37 CFR 1.28(c) and counsel's deposit account will be charged the appropriate fees under 37 CFR 1.492(a)(5) and 37 CFR 1.492(b).

CONCLUSION

The request under 37 CFR 1.28(c) is **GRANTED**.

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Gheorghe Iordanescu	: DECISION ON REQUEST FOR
Patent Number	: 7570802	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/500,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **919** 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

MORGAN & FINNEGAN
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

In re Patent No. 7,004,226 :
Issue Date: February 28, 2006 :
Application No. 10/500,345 : ON PETITION
Filed: June 24, 2004 :
Attorney Docket No. 4872-4710 :

This is a decision on the request filed December 11, 2006 and resubmitted on March 8, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is Dismissed.

Petitioner seeks to have a Certificate of Correction issued in the name of **LUVATA OY.** 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of the assignee is provided. **37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but *prior to issuance of a patent.*** PTO assignment records disclose that this patent issued in the name of OUTOKUMPU OYJ. As such, issuance of a Certificate of Correction would not be proper at this time. Additionally, assignee LUVATA OY was recorded on March 8, 2007, which is well after the patent issued on February 28, 2006.

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

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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WILLIAM D. BUNCH
W. R. GRACE & CO.-CONN.
PATENT DEPARTMENT
7500 GRACE DRIVE
COLUMBIA, MD 21044-4098

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of
Hans G. FRITZ, *et al.*
Application No. 10/500,349
Filed: November 18, 2005
Attorney Docket No. **W9543-01**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2010, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 6, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 7, 2009. *See* MPEP 1215.04.

The petition is **DISMISSED**.

It appears the petitioner's registration number and signature was omitted from the petition filed May 20, 2010.

37 CFR 1.33 (b) states that:

Amendments and other papers filed in the application must be signed by:

(1) An attorney or agent appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a Representative capacity under the provisions of § 1.34(a);

* * * * *

37 CFR 1.34 states:

"When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In

filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required."

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. Therefore, the statement of unintentional delay in an improperly filed petition cannot be accepted.

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
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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.

Thurman K. Page
Petitions Examiner
Office of Petitions

03 APR 2006

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Felix J. D'Ambrosio
BACON & THOMAS. PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314

In re Application of :
VAN DYK, Andre :
U.S. Application No.: 10/500,356 :
PCT No.: PCT/ZA02/00209 : **DECISION**
Int. Filing Date: 17 December 2002 :
Priority Date: 03 January 2002 :
Attorney's Docket No.: VAND3026/FJD :
For: ACTIVATED STEMMING DEVICE :

The decision is in response to the "Renewed Petition Under 37 CFR 1.47(b)" submitted on 18 January 2006.

BACKGROUND

On 18 November 2005, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of items (2) and (6) of 37 CFR 1.47(b).

On 18 January 2006, petitioner filed a renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (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 nonsigning inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Applicant satisfied items (1), (3), (4), and (5) in the initial petition.

With regard to item (2), the prior decision indicated that it was not clear whether Mr. Van Dyk was presented with a complete copy of the application. Even if provided a copy of the application, it was also not clear that the time frame involved would constitute a refusal. The decision also noted that it does not appear that Mr. Taberer had first-hand knowledge of what papers were sent to Mr. Van Dyk with the letter dated 3 May 2005.

Applicant requests reconsideration of the prior decision and states that a full copy of the specification was sent via email dated 17 December 2004 addressed to the nonsigning inventor. Petitioner argues that the "application had a title and a specification and the assignment identified the international application number." Petitioner concludes that "[t]here can be no doubt what application was being submitted to Mr. Van Dyk, nor could Van Dyk have any such doubt."

In addition, petitioner contends that the statement by Mr. Taberer "identified specifically what was sent to Mr. Van Dyk" and it is not necessary that the documents identified in the statement of Mr. Taberer be placed in the mail by him. All that matters is that Mr. Taberer "attests to their existence, and that they were sent."

A review of the documentary evidence records that a complete copy of the application was sent to Mr. Van Dyk on 3 May 2005. The documents were delivered on 9 May 2005. Moreover, the statement by Mr. Taberer dated 30 May 2005 indicates that he called Mr. Van Dyk on 23 May 2005 and was told that the nonsigning inventor would not cooperate. Taberer Decl. at ¶ 3. This constitutes an oral refusal and is sufficient to satisfy section 409.03(d) of the MPEP.[1] Item (2) is satisfied.

Regarding item (6), petitioner has provided a statement of Irreparable damage in the renewed petition as required.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 22 June 2005 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 December 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 June 2005.

---

[1] MPEP § 409.03(d) 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. (Emphasis added).

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

03 APR 2006

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Mr. Andre Van Dyk
223 Eland Street
Wierda Park
Centurion
0002 Pretoria
South Africa

In re Application of
VAN DYK, Andre
U.S. Application No.: 10/500,356
PCT No.: PCT/ZA02/00209
Int. Filing Date: 17 December 2002
Priority Date: 03 January 2002
Attorney's Docket No.: VAND3026/FJD
For: ACTIVATED STEMMING DEVICE

Mr. Van Dyke:

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Felix J. D'Ambrosio
BACON & THOMAS. PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314

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625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

In re Application of	:
VAN DYK, Andre	: DECISION ON
US Application No.: 10/500,356	:
PCT Application No.: PCT/ZA02/00209	: PETITION
Int. Filing Date: 17 December 2002	:
Priority Date: 03 January 2002	: UNDER
Attorney's File Reference: VAND3026/FJD	:
For: ACTIVATED STEMMING DEVICE	: 37 CFR 1.47(b)

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(b)", filed 22 June 2005, requesting acceptance of the application without the signature the sole inventor Andre Van Dyk (Van Dyk). The $200 petition fee has been paid.

BACKGROUND

On 17 December 2002, the applicant filed international application number PCT/ZA02/00209 claiming a priority date of 03 January 2002 and listing Van Dyk as the sole inventor. Accordingly, the 30-month time period for entry into the US national stage under 35 USC 371 expired at midnight on 03 July 2004.

On 30 June 2004, applicant filed a transmittal letter concerning a filing under 35 USC 371 along with, inter alia, the basic national fee. No oath or declaration was included.

On 22 November 2004, the US Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements indicating that the applicant was required to provide an oath or declaration within the time period set for response in the notification.

On 22 June 2005, the applicant filed the present "PETITION UNDER 37 CFR 1.47(b)" which is accompanied by, inter alia, 1) a declaration of inventorship signed by Edward Walenty Tota, the general manager of assignee NXCO International Limited, 2) two unsigned letters from the law firm of McCallum Rademeyer and Freimond, dated 02 September 2004 and 20 September 2004, addressed to Van Dyk both indicating that a declaration, power of attorney, and assignment document for the US national stage of international application number PCT/ZA02/00209 were included therewith and requesting that Van Dyk sign and return the enclosed documents, 3) a copy of an email dated 17 December 2004, including twenty-one attachments, from Monty Rademeyer, of the law firm of McCallum Rademeyer and Freimond, to Van Dyk indicating that a copy of the specification, claims, declaration, power of attorney, and

assignment document for some unidentified patent applications were included for his signature, 4) a statement of Roy Francis Taberer (Taberer statement) of the law firm of McCallum, Rademeyer, and Freimond dated 30 May 2005, 5) an unsigned letter from the law firm of McCallum Rademeyer and Freimond, dated 03 May 2005, addressed to Van Dyk indicating that a full copy of the specification including the claims, drawings, and abstract as well as the declaratrion for the US national stage of international application number PCT/ZA02/00209 had been previously sent via email to Van Dyk and requesting that Van Dyk sign and return the declaration, 6) a copy of a postal tracking receipt dated 09 May 2005 and indicating that the status of the package was "First notification to the client to collect the postal item".

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. A review of the application file reveals that petitioner has satisfied items (1), (3), (4), and (5).

With regard to item (2) above, MPEP section 409.03(d) entitled "Proof of Unavailability or Refusal" states, in part:

> **REFUSAL TO JOIN**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the

statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

It is not clear that Van Dyk was ever presented with a complete copy of the above-identified application including the specification, drawings, and claims as well as an oath or declaration. The letters of 02 September 2004 and 20 September 2004 both only indicate that a declaration, power of attorney, and assignment document were being provided to Van Dyk. There is no indication that a complete copy of the application including the specification, claims, and drawings as well as the declaration were provided to non-signing inventor Van Dyk. In addition, the email dated 17 December 2004 and addressed to Van Dyk indicates that a full copy of the specification, claims, declaration, power of attorney, and assignment document for some patent applications are attached thereto. However, there is no clear indication as to which applications the email pertains. Further, the email includes twenty-one attachments, none of which are clearly labeled as being directed to any particular application. As such, it is unclear as to which applications the email is directed. The letter of 03 May 2005 only indicates that a full copy of the specification, claims, drawings, and declaration were sent to non-signing inventor Van Dyk in a previous email. There is no indication that a complete copy of the application including the specification, claims, and drawings was attached to the letter. Finally, the Taberer statement indicates that a declaration attached to a full copy of the application as filed was sent to non-signing inventor Van Dyk along with the letter of 03 May 2005. However, it does not appear that Taberer has first-hand knowledge of exactly which papers were sent to Van Dyk with the letter of 03 May 2005 since it does not appear that Taberer himself mailed the letter of 03 May 2005.

Accordingly, it is not clear whether non-signing inventor Van Dyk was ever presented with a complete copy of the application papers including the specification, claims, drawings, and oath or declaration. Further, even if Van Dyk was presented with a complete copy of the application papers along with the letter of 03 May 2005, it is not clear that Van Dyk refused to sign the declaration after having reviewed that complete copy of the application. The Taberer statement indicates that as of 30 May 2005 Van Dyk had neither contacted Taberer nor returned the signed declaration to Taberer. However, the postal tracking receipt of 09 May 2005 indicates that the letter of 03 May 2005 only first became available to Van Dyk as of 09 May 2005. It is not clear that Van Dyk would have had time to fully review the letter and respond to Taberer within the three weeks between 09 May 2005, the time the 03 May 2005 letter first became available to him, and 30 May 2005, the date of the Taberer statement. Further, no there is no evidence that Van Dyk refused to execute the declaration after having reviewed the complete copy of the application.

Accordingly, the applicant is required to provide either 1) a declaration of inventorship signed by Van Dyk or 2) sufficient factual proof that Van Dyk refuses to execute the application

after having been provided with a complete copy of the application including the description, claims, drawings, and oath or declaration.

With regard to item (6) above, MPEP 409.03(g) states:

> Irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage.

The applicant must show that a grant of status under 37 CFR 1.47(b) is nessesary to preserve the rights of the parties or to prevent irreparable damage. Irreparable damage may be established by simply providing a statement in accordance with MPEP 409.03(g) indicating that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage.

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. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response to this decision will result in ABANDONMENT of the application.

Any further correspondence with respect to this matter deposited with the United States Postal Service 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.

Diana Oleksa
Special Programs Examiner
PCT Special Programs Office
Telephone: 571-272-3291

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

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

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Maura, et al. :
Application No. 10/500,367 : ON PETITION
Filed: June 28, 2004 :
Attorney Docket No. 22106-00062-US1 :
For: COMPONENTS OF THERMOSTATIC UNITS AND LASER WELDING METHOD FOR PRODUCING THE COMPONENTS

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2007, to revive the above-identified application.

This application became abandoned for failure to timely submit a reply to the September 14, 2006 Notice Regarding Drawings, which set a non-extendable two month period for reply. No reply being received, the application became abandoned on November 15, 2006. A Notice of Abandonment was mailed on December 22, 2006.

Applicants have submitted a proper reply in the form of a corrected drawings, an acceptable statement of the unintentional nature of the delay in responding to the September 14, 2006 Notice Regarding Drawings, and the $1,500.00 petition fee.

The petition is **granted**.

As no extensions of time were available to respond to the September 14, 2006 Notice Regarding Drawings, the $450.00 two month extension of time submitted with the petition on February 5, 2007 will be credited to petitioners' deposit account.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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8000 TOWERS CRESCENT DRIVE
14TH FLOOR
VIENNA VA 22182-6212

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OCT 09 2008

OFFICE OF PETITIONS

In re Application of :
Jaakko Rajaniemi :
Application No. 10/500,370 : DECISION ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. 59864.01048 :

This is a decision on the petition, filed May 21, 2008 under 37 CFR 1.181 requesting a withdrawal of finality and a refund of the Request for Continued Examination (RCE) fee.

The petition is to withdrawal finality is **DISMISSED** as being moot.

The request for a refund is **DISMISSED**.

A final rejection was mailed February 21, 2008, which set a shortened statutory period for reply of three (3) months. In response, an RCE was timely filed May 21, 2008 with an amendment and the required fee of $810.00. Petitioner alleges that the finality was improper and that, therefore, the $810.00 fee submitted with the RCE should be refunded.

However, 37 CFR 1.114(d) indicates that, upon the filing of an RCE, the Office will withdraw the finality of any Office action if an applicant timely files a submission and fee set forth in 37 CFR 1.17(e). Here, upon the filing of the RCE with an amendment and fee on May 21, 2008, the finality established by the February 21, 2008 Office action was withdrawn. Consequently, since finality was already withdrawn on February 21, 2008 via the filing of the RCE with amendment and fee, finality cannot again be withdrawn via petition under 37 CFR 1.181.

Furthermore, the payment of the RCE fee is not conditional, but a required part of the proper filing of an RCE. See 37 CFR 1.114(a). That is, the fee must be paid in order to properly file the RCE, without regard to other matters such as the propriety of the final rejection. On page 3 of the petition, petitioner indicated that the RCE was filed "[i]n order to prevent paying fees for an extension of time." This choice to file an RCE in response to the final rejection necessitated the payment of the required fee under 37 CFR 1.17(e).

Moreover, refunds are only permitted in the event that a fee is paid by mistake or in excess of that required. See 37 CFR 1.26(a). As the RCE was intentionally filed and payment of the fee

was a required part of the filing of the RCE, the fee was not paid by mistake. Also, the $810.00 paid was precisely the amount of the fee required for the filing of an RCE by other than a small entity. Thus, no fee has been paid in excess of that required. Accordingly, the $810.00 paid in the filing of the RCE will not be refunded.

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)

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,105,349 :
Issued September 12, 2006 :
Application Number: 10/500,377 : DECISION ON PETITION
Filing Date: June 30, 2004 :
Attorney Docket Number: **12610-00139-US** :

This is a decision on the petition under 37 CFR 1.322 filed February 5, 2007 for a certificate of correction to correct the name of the assignee.

The petition is **DISMISSED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted June 23, 2006, incorrectly identified the assignee. However, the granting of a request under 37 CFR 3.81 (b)[1] is required to correct applicant's error providing incorrect or erroneous assignment date, 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.

Additionally, petitioner must provide a statement that the failure to include the correct assignee name on the PTO)L-85B was inadvertent and include a copy of the notice of Recordation of Assignment Document, reflecting the real and frame number where the assignment(s) is recorded and/or reflecting proof of the date the assignment was submitted for recordation.

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;
(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

The instant petition was not submitted with a petition under 37 CFR 3.81(b) and thus cannot be granted.

Any request for reconsideration under 37 CFR 3.81(b) should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

24 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TECHNOPROP COLTON, L.L.C.
P O BOX 567685
ATLANTA, GA 31156-7685

In re Application of FOCKE et al :
U.S. Application No.: 10/500,378 :
PCT Application No.: PCT/EP03/00047 :
Int. Filing Date: 07 January 2003 : DECISION
Priority Date Claimed: 11 January 2002 :
Attorney Docket No.: 20605.014US :
For: DEVICE FOR PRODUCING (CIGARETTE) PACKS :

This is in response to the declaration filed 27 December 2004, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 07 January 2003, applicant filed international application PCT/EP03/00047, which claimed priority of an earlier Germany application filed 11 January 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 17 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 July 2004.

On 29 June 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 09 December 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 27 December 2004, applicant filed the present request for status under 37 CFR 1.42.

DISCUSSION

The declaration states that inventor Heinz Focke is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration filed 27 December 2004 is in compliance with 37 CFR 1.42.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 07 January 2003, and a date under 35 U.S.C. 371(c) of 27 December 2004.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,383	06/29/2004	Yuichi Sabi	252558US6PCT	9022

22850 7590 01/28/2008

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

EXAMINER	
GOMA, TAWFIK A	

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	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

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.
10/500,383	06/29/2004	Yuichi Sabi	252558US6PCT	9022

7590 01/28/2008

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

EXAMINER	
GOMA, TAWFIK A	

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

02 FC:1615 -18.00 OP

Notice of Abandonment	Application No.	Applicant(s)	
	10/500,383	SABI ET AL.	
	Examiner	Art Unit	
	Goma, Tawfik	2627	

-- 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:

/Rick Clemons/ ☐☐Administrative Assistant☐☐Art Unit: 3900

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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OFFICE OF PETITIONS

HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

In re Application of :
Per Hyldgaard et al :
Application No. 10/500,384 : ON PETITION
Filed: December 14, 2004 :
Attorney Docket No. 18070-00008/US

This is a decision on the petition, filed November 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 October 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. **7,167,814**
Issue Date: January 23, 2007
Application No. 10/500,387
Filed: October 22, 2004
Attorney Docket No. **1501-1258**

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed March 19, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "S.P.M. Instrument AB."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Stefan Lindberg, et al. to S.P.M. Instrument AB was recorded on March 9, 2009, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Christopher S. Haggerty appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Haggerty desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Haggerty, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision on petition should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER S. HAGGERTY**
ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

13 JUL 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent
United States Patent and Trademark Offic
Washington, D.C. 2023
www.uspto.go

Peter G. Dilworth
DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, NY 11553

In re Application of :
CHOW, David R. *et al* :
U.S. Application No.: 10/500,395 :
PCT No.: PCT/US02/41444 :
Int. Filing Date: 27 December 2002 :
Priority Date: 27 December 2001 :
Docket No.: 285-237 PCT US :
For: BONE FASTENERS AND METHOD OF STABILIZING VERTEBRAL BONE FACETS USING THE BONE FASTENERS :

DECISION ON PETITION FOR REVIVAL 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 24 June 2005. A review of the subject application reveals it is not abandoned.

Accordingly, applicants' petition to revive is **DISMISSED** as **MOOT**.

The Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) mailed 26 November 2004 provided applicants two months to submit a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee. Extensions of time were available pursuant to 37 CFR 1.136(a) which authorizes up to five months. Thus, the deadline to provide a declaration and surcharge fee was 27 June 2005 (26 June 2005 was a Sunday).

In this case, applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee on 24 June 2005 along with a transmittal letter authorizing that any additional fees required be charged to Deposit Account No. 04-1121. This is treated as a request for a five-month extension of time request which has been granted.

The five-month extension fee of $1,080.00 for a small entity has been charged to counsel's Deposit Account as authorized. Applicants' petition to revive fee of $750.00 has been credited back to counsel's Deposit Account.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371. The application has an international filing date of 27 December 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 24 June 2005.

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

Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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SOFER & HAROUN LLP.
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of :
Holtzer et al. :
Application No. 10/500,407 : ON PETITION
Filed: December 8, 2004 :
Attorney Docket No. 979-077 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 21, 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 two 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 April 22, 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 $1500.00 will be charged to deposit account 19-2825; and (3) a statement of unintentional delay.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

This application is being referred to Technology Center AU3653 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.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

#5

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26 SEP 2006

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

In re Application of: BRAUN, Michael, et al.
U.S. Application No.: 10/500,414
PCT No.: PCT/ EP02/14166 DECISION
International Filing Date: 12 December 2002
Priority Date: 27 December 2001
Attorney's Docket No.: 2000P16272WOUS
For: AUTOMATED METHOD FOR GENERATING PROGRAM MODULES USED FOR CONTROLLING FIELD DEVICES BY MEANS OF A MACHINE-READABLE PARAMETERED DESCRIPTION OF THE FIELD DEVICES

This decision is issued in response to the "Request To Withdraw The Holding Of Abandonment" filed 13 July 2006, considered herein under 37 CFR 1.8(b). No petition fee is required.

BACKGROUND

On 12 December 2002, applicants filed international application PCT/EP02/14166. The application claimed a priority date of 27 December 2001, and it designated the United States. On 10 July 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for filing the basic national fee was thirty months after the priority date, i.e., 27 June 2004.

On 24 June 2004, applicants filed a transmittal letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 10 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 16 June 2006, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements.

On 13 July 2006, applicants filed the petition considered herein. The petition requests withdrawal of the holding of abandonment, stating that a response to the Notification Of Missing Requirements was timely filed via facsimile on 10 August 2005.

DISCUSSION

The present petition is accompanied by a document entitled "Response To Notification Of Missing Requirements Under 35 U.S.C. 371" that references an attached declaration, contains the authorization to charge Deposit Account No. 19-2179 the required surcharge, and bears a "Certificate Of Mailing" dated 10 August 2005. The Certificate Of Mailing, executed by Ann Hickey, states that the accompanying materials were transmitted to the USPTO by facsimile. The petition also includes a copy of an executed declaration, and the confirmation report from applicants' facsimile machine.

The application file does not contain the materials purportedly filed by facsimile on 10 August 2005. In order to confirm the 10 August 2005 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which states the following:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Referring to the statement required by 37 CFR 1.8(b)(3), MPEP § 512 states the following: "If the person signing the statement did not sign the certificate of mailing, then the

person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission."

The present petition, which is signed by John P. Musone, states that the attached materials were submitted by facsimile on 10 August 2005. However, Mr. Musone is not the person who executed the Certificate Of Mailing, and he does not state "how he has firsthand knowledge of the previous mailing or transmission" as required by MPEP § 512; the petition does not include a confirming statement from Ann Hickey (the person who executed the Certificate Of Mailing on the response materials). Based on the above, the present petition does not satisfy the requirement of 37 CFR 1.8(b)(3).

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above.

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

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

#7

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26 OCT 2006

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

In re Application of:
BRAUN, Michael, et al.
U.S. Application No.: 10/500,414
PCT No.: PCT/EP02/14166
International Filing Date: 12 December 2002
Priority Date: 27 December 2001
Atty Docket No.: 2000P16272WOUS
For: AUTOMATED METHOD FOR GENERATING PROGRAM MODULES ...

DECISION

This decision is issued in response to the "Request For Reconsideration Of Decision Denying Request To Withdraw The Holding Of Abandonment" filed 18 October 2006.

BACKGROUND

The procedural background for this application was set forth in the Decision mailed by this Office on 26 September 2006. That decision dismissed applicants' petition for withdrawal of the holding of abandonment for failure to satisfy all the requirements for a grantable petition. Specifically, applicants had not provided the showing required under 37 CFR 1.8(b)(3) confirming the previous submission by facsimile of a timely response to the Notification Of Missing Requirements.

On 18 October 2006, applicants filed the request for reconsideration considered herein.

DISCUSSION

The present submission includes a statement from Ann Hickey, the person who executed the "Certification Of Transmission Under 37 CFR 1.8" and the "Certificate Of Mailing" contained on the materials purportedly filed by applicants on 10 August 2005. This first hand statement, in combination with the statements herein and in the previous petition, provides an acceptable showing that the "Response To Notification Of Missing Requirements Under 35 U.S.C. 371" and the accompanying declaration and surcharge payment authorization (copies of which were included with the original petition filed herein on 13 July 2006) were filed in the USPTO by facsimile on 10 August 2005 as a timely response to the Notification Of Missing Requirements mailed 10 June 2005. It is noted, that for all purposes other than timeliness, these materials will be treated as having been filed on 13 July 2006, the date of receipt of the earliest-filed copy of these materials present in the application file.

The Notification Of Abandonment mailed 16 June 2006, based as it was on applicants' purported failure to file a timely and proper response to the Notification Of Missing Requirements, is appropriately vacated.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 16 June 2006 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 July 2006.

Richard M. Ross
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In re Application of :
Hsua-Ming SHIH :
Application No. 10/500,419 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. LPTF02 :

This is a decision on the petition, filed June 23, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is **TAIGUEN TECHNOLOGY (SHEN_ZHEN)** CO., LTD., and that an incorrect assignee's name 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 **TAIGUEN TECHNOLOGY (SHEN_ZHEN) CO., LTD**.

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

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

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

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.

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

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In re Patent No. 7,486,270 :
Issue Date: February 3, 2009 :
Application No. 10/500,419 : ON PETITION
Filed: June 25, 2004 :
Attorney Docket No. LPTF02 :

This is a decision on the petition December 11, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

for Thurman K. Page
Petitions Examiner
Office of Petitions

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

03 MAR 2005

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In re Application of	:	
HSUAN-MING SHIH	:	DECISION ON
Application No.: 10/500,421	:	
PCT No.: PCT/CN02/00546	:	
Int. Filing Date: 07 August 2002	:	PETITION UNDER
Priority Date: 29 December 2001	:	
Attorney Docket No.: LPTF01	:	
For: A PORTABLE DATA CONVERSION	:	37 CFR 1.182
WITH STANDARD DATA PORT	:	

This decision is in response to applicant's "Notification of Correcting Typographical Error in Inventor's Name" filed on 25 June 2004 indicating that the executed declaration filed on June 25, 2004 contains the corrected Inventor's name which is HSUAN-MING SHIH. This is being treated as a petition under 37 CFR 1.182 and $130.00 petition fee has been charged to applicant's Deposit Account No.: 50-0710.

DISCUSSION

On 07 August 2002, applicant filed international application No. PCT/CN02/00546, which claims a priority date of 29 December 2001.

On 25 June 2004, applicant filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee, an executed declaration and the instant communication. The communication indicated that the correct name of the inventor is HSUAN-MING SHIH as stated on the Declaration attached and not as previously filed with the international application (PCT/CN02/00546) as Xuanming SHI.

DISCUSSION

It is unclear from the submission whether the corrected name is due to a name change or a typographical error since applicant has provided no explanation as to why the mistake was a typographical error. The current name is significantly different from the one listed in the international application. Therefore, the declaration of the inventor is not acceptable at this time, in that the name of the named inventor, HSUAN-MING SHIH, does not correspond to that set forth in the international application, Xuanming SHI.

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant must provide items (1) and (2) for consideration. Alternatively, applicants may provide a showing that the name change was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

If, however, the name change is due to a typographical error then applicant needs to state and explain it.

For the reasons above, the application may not enter into national stage processing at this time.

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

A proper response to the Notice must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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

Rafael Bacares
PCT Legal Examiner
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Telephone: (571) 272-3276
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Boris Milef
PCT Legal Examiner
PCT Legal Office

05 APR 2005

#5

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In re Application of	:	
HSUAN-MING SHIH	:	DECISION ON RENEWED
Application No.: 10/500,421	:	
PCT No.: PCT/CN02/00546	:	
Int. Filing Date: 07 August 2002	:	PETITION UNDER
Priority Date: 29 December 2001	:	
Attorney Docket No.: LPTF01	:	
For: A PORTABLE DATA CONVERSION	:	37 CFR 1.182
WITH STANDARD DATA PORT	:	

This is in response to applicant's submission "RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.182" filed on 23 March 2005, which is being treated as renewed petition under 37 CFR 1.182. This submission states that there are two ways of translating the inventor's Chinese name into English name: 1) XUANMING SHI (used in mainland China) or 2) "HSUAN-MING SHIH (used in Taiwan).

BACKGROUND

In a decision from this Office on 03 March 2005, the decision indicated that the application could not enter into national stage at that time since it was unclear if the current name was a result of a transliteration error because both the given and family name are different from what was published in the PCT application.

On 03 March 2005, this renewed petition was filed and states that there are two ways of translating the inventor's Chinese name into English name: 1) XUANMING SHI (used in mainland China) or 2) "HSUAN-MING SHIH (used in Taiwan). Applicant states that in the international application, PCT/CN02/00546, the name "XUANMING SHI" was used but inventor prefers "HSUAN-MING SHIH."

DISCUSSION

The preferred name of the applicant "HSUAN-MING SHIH" will be reflected in the US national stage processing. This is the name that has been used in the Declaration.

For the reasons above, the application may enter into national stage processing at this time.

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **25 JUNE 2004.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

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Leonard Smith
PCT Legal Examiner
PCT Legal Office

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IRVINE CA 92618

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In re Patent No. 7296098 :
Issue Date: 11/13/2007 :
Application No. 10/500421 : NOTICE
Filed: 06/25/2004 :
Attorney Docket No. LPTF01 :

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) 272-3231.

DWood

Douglas I. Wood
Attorney
Office of Petitions

United States Patent and Trademark Office

10 FEB 2006

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Paul H. Ware

8910 2nd Avenue
Inglewood CA 90305

In re Application of	:	
John McCOY, et al.	:	DECISION ON REQUEST
Application No.: 10/500,442	:	TO WITHDRAW AS
PCT No.: PCT/US03/23925	:	ATTORNEY OF RECORD
Int. Filing Date: 31 March 2003	:	
Priority Date:	:	
For: INTERNALLY COLORED BLOCK AND PROCESS	:	

This is in response to the "REQUEST FOR WITHDRAWAL" and the request for status of the above-captioned application filed 20 June 2005. No fee is required.

DISCUSSION

The criteria for effecting a proper withdrawal of attorney is spelled out in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

> "In the event that a notice of withdrawal is filed by an attorney or agent of record... appropriate procedure will be followed pertaining to the withdrawal. The **withdrawal is effective when approved** rather than when received.
>
> To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36, Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another.
>
> The Commissioner of Patents and Trademarks usually requires that there be at least 30 days between *approval* of withdrawal and the later of the expiration date of a time response period or the expiration date of the period which can be obtained by a

petition and fee for extension of time under 37 CFR 1,136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for response and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed."

Since all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with and since there are no outstanding responses due, the request to withdraw as attorney of record is GRANTED and is effective as of the mail date of this communication.

All future communications from this Office will be forwarded to John McCoy at the address indicated in the Oath submitted 29 June 2004.

With regard to the status of the national stage application, please be notified that the application is presently with Examiner Yvonne Horton in Tech Center 3635 (tel: 571-272-6845).

DECISION

In view of the above discussion, counsel's Request for Withdrawal is GRANTED.

A copy of this decision will be transmitted to applicant John McCoy.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (571) 272-3290

NNH/RC:hn

cc: John McCoy
2822 Main Street
Riverside, California 92501

18 AUG 2005

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MINNEAPOLIS MN 55400-1022

In re Application of SHUSTER et al.
Application No.: 10/500,444
PCT No.: PCT/US02/41834
Int. Filing: 31 December 2002
Priority Date: 31 December 2001
Attorney Docket No.: 14848-004US1
For: METHODS AND MATERIALS FOR MODULATING TASK-3

: DECISION ON
: PETITION
: UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 18 May 2005. Applicant also filed a request for a two month extension of time, which is granted.

BACKGROUND

On 29 June 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 19 January 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 18 May 2005, in response to the Notification of Missing Requirements, 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 Ulf N.G. Arvidsson.

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).

Items (1), (3) and (4) are satisfied.

With respect to item (2), Petitioner argues that Mr. Arvidsson is unavailable to sign the declaration, providing a statement of M. Angela Parsons, technologist specialist with Fish & Richardson. Ms. Parsons states that on 26 August 2004, she sent a declaration to Mr. Arvidsson's last known address via Federal Express (FedEx) (¶ 6). Ms. Parsons further states that after several weeks had passed and she had not received the signed Declaration, she looked at the electronic signature of the receiving party that is provided on the FedEx website (¶ 9). According to Ms. Parsons, "[t]he signature did not appear to be that of Ulf G. Arvidsson. Unfortunately, this page was not printed and it is not available at this time." Ms. Parsons' further explains that when the FedEx tracking number is now entered into the system, the name of the receiving party is a computer-entered name and is no longer the electronic signature. A copy of the E-mail shipping statement from FedEx dated August 31, 2004 regarding the shipment sent from M. Angela Parsons/Fish &Richardson to Ulf N.G. Arvidsson is attached as Exhibit D. The shipping statement indicates that the "package was delivered on 08/31/04 at 11:51 AM and signed for or released by U. Arvidsson." Petitioner has not provided and in fact, now cannot provide a copy of the electronic signature to show that it was not Mr. Arvidsson's signature to demonstrate that Mr. Arvidsson did not receive the shipment. Petitioner has not provided any evidence showing that the signature on the delivery does not match Mr. Arvidsson's signature. Thus, it cannot be concluded that Mr. Arvidsson is not available. Moreover, the attempts to locate Mr. Arvidsson by Internet searches were not successful, which is consistent with the delivery to his last known address.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor at his last known address by providing a copy of the application papers including specification, claims and drawings to Mr. Arvidsson's last known address. *See* MPEP 409.03(d). Under these circumstances, it cannot be concluded that Ulf N.G. Arvidsson is unavailable to sign the application. Petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/500,493 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2)Ulf N.G. Arvidsson's unavailability after petitioner's diligent effort or Ulf N.G. Arvidsson's refusal to sign, either in writing or orally, these documents. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

It is noted that both Ms. Parsons' statement and her letters to each of the signing inventors indicate that she sent the inventors only declarations for five different U.S. applications. (Copies of her letters to each of the joint inventors were attached to her statement as Exhibit C.) In light of the above discussion, since the inventors were not provided with a copy of the complete application (that is, specification, claims and drawings), counsel is advised that each signing joint inventor should now be provided with a complete copy of the application papers (including specification, claims and drawings) for each application.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail

Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Fax: (571)-272-0459
Fax: (571)-272-0459

13 JUN 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P O BOX 1022
MINNEAPOLIS MN 55400-1022

In re Application of SHUSTER et al.
Application No.: 10/500,444
PCT No.: PCT/US02/41834
Int. Filing: 31 December 2002
Priority Date: 31 December 2001
Attorney Docket No.: 14848-004US1
For: METHODS AND MATERIALS FOR MODULATING TASK-3

: 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 13 February 2006. Applicant also filed a request for a four month extension of time, which is granted.

BACKGROUND

On 29 June 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 19 January 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 18 May 2005, in response to the Notification of Missing Requirements, 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 Ulf N.G. Arvidsson.

On 18 August 2005, a decision dismissing the petition was mailed to applicant indicating that the action taken by petitioner was not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor at his last known address by providing a copy of the application papers including specification, claims and drawings to Mr. Arvidsson's last known address.

On 13 February 2006, applicant filed 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 has satisfied the requirements of (1)- (4) of 37 CFR 1.47(a).

With respect to item (2), Petitioner argues that Mr. Arvidsson refuses to sign the declaration, providing a supplemental declaration of M. Angela Parsons, technologist specialist with Fish & Richardson. Ms. Parsons states that on 19 September 2005, she sent a "a copy of the above-referenced U.S. application along with a Declaration and a postage-paid return envelope to Ulf N.B. Arvidsson at his last known address." (¶ 7) According to Ms. Parsons, the FedEx website indicated that the package was signed for on 21 September 2005 by N. Arvidsson. To date, Mr. Arvidsson has not responded to the correspondence.

The action taken by petitioner is sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor at his last known address by providing a copy of the application papers including specification, claims and drawings to Mr. Arvidsson's last known address. *See* MPEP §409.03(d). Under these circumstances, it can now be concluded that Ulf N.G. Arvidsson refuses to sign the application. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 18 May 2005. The application has an international filing date of 31 December 2002 under 35 U.S.C. 363, and a date of 18 May 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.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

13 JUN 2006
UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Ulf N.G. Arvidsson
Gardstigen 4
Lidingo, Sweden

In re Application of SHUSTER et al. Application No.: 10/500,444 PCT No.: PCT/US02/41834 Int. Filing: 31 December 2002 Priority Date: 31 December 2001 Attorney Docket No.: 14848-004US1 For: METHODS AND MATERIALS FOR MODULATING TASK-3	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Arvidsson:

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

FISH & RICHARDSON P.C.
P O BOX 1022
MINNEAPOLIS MN 55400-1022

20 DEC 2004

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ALEXANDRIA, VA 22313-1450
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Gary M. Nath
Nath & Associates, PLLC
1030 15th Street, NW - 6th Floor
Washington, D.C. 20005

In re Application of :
PARK : DECISION ON PETITION
Application No.: 10/500,447 :
PCT No.: PCT/KR02/02154 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 19 November 2002 :
Priority Date: 19 November 2001 :
Atty. Docket No.: 26208 :
For: METHOD FOR PRODUCING A RECOMBINANT : PROTEIN USING POLLEN :

The petition to revive under 37 CFR 1.137(b) filed 30 June 2004 in the above-captioned application is hereby **GRANTED** as follows:

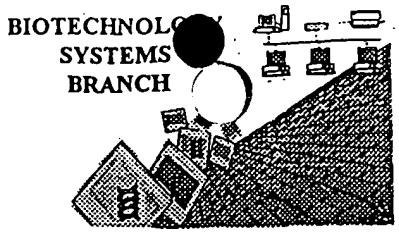
Applicant's statement that "the entire delay in filing this entry into the national phase due 19 May 2004, until the filing of this statement and the attached Petition under CFR 1.137(b) is unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

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. It is noted that the sequence listing filed 30 June 2004 is defective. A courtesy copy of the "Raw Sequence Listing Error Report" is attached.

As authorized, the $65.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date will be deducted from Deposit Account No.: 14-0112.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the mailing of "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that a compliant sequence listing is required.

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



RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 10/500,447
Source: PCT
Date Processed by STIC: 7/8/04

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.
PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:
1) **INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,**
2) **TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY**

FOR CRF SUBMISSION AND PATENTIN SOFTWARE QUESTIONS, PLEASE CONTACT MARK SPENCER, TELEPHONE: 571-272-2510; FAX: 571-273-0221

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE **CHECKER VERSION 4.2 PROGRAM**; ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW FOR ADDRESS:

http://www.uspto.gov/web/offices/pac/checker/chkrnote.htm

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.
Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.
Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<http://www.uspto.gov/ebc/efs/downloads/documents.htm> , **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service:** Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. **Hand Carry, Federal Express, United Parcel Service, or other delivery service (EFFECTIVE 06/05/04):** U.S. Patent and Trademark Office, 220 20th Street S., Customer Window, Mail Stop Sequence, Crystal Plaza Two, Lobby, Room 1B03, Arlington, VA 22202

Revised 05/17/04

Sequence Listing Error Summary

ERROR DETECTED | **SUGGESTED CORRECTION** | SERIAL NUMBER: 10/500,447

ATTN: NEW RULES CASES: PLEASE DISREGARD ENGLISH "ALPHA" HEADERS, WHICH WERE INSERTED BY PTO SOFTWARE

1____ Wrapped Nucleics / Wrapped Aminos — The number/text at the end of each line "wrapped" down to the next line. This may occur if your file was retrieved in a word processor after creating it. Please adjust your right margin to .3; this will prevent "wrapping."

2____ Invalid Line Length — The rules require that a line not exceed 72 characters in length. This includes white spaces.

3____ Misaligned Amino Numbering — The numbering under each 5th amino acid is misaligned. Do not use tab codes between numbers; use space characters, instead.

4____ Non-ASCII — The submitted file was not saved in ASCII(DOS) text, as required by the Sequence Rules. Please ensure your subsequent submission is saved in ASCII text.

5____ Variable Length — Sequence(s)____contain n's or Xaa's representing more than one residue. Per Sequence Rules, each n or Xaa can only represent a single residue. Please present the maximum number of each residue having variable length and indicate in the <220>-<223> section that some may be missing.

6____ PatentIn 2.0 "bug" — A "bug" in PatentIn version 2.0 has caused the <220>-<223> section to be missing from amino acid sequences(s) _____. Normally, PatentIn would automatically generate this section from the previously coded nucleic acid sequence. Please manually copy the relevant <220>-<223> section to the subsequent amino acid sequence. This applies to the mandatory <220>-<223> sections for Artificial or Unknown sequences.

7____ Skipped Sequences (OLD RULES) — Sequence(s) _____ missing. If intentional, please insert the following lines for each skipped sequence
(2) INFORMATION FOR SEQ ID NO:X: (insert SEQ ID NO where "X" is shown)
(i) SEQUENCE CHARACTERISTICS: (Do not insert any subheadings under this heading)
(xi) SEQUENCE DESCRIPTION:SEQ ID NO:X: (insert SEQ ID NO where "X" is shown)
This sequence is intentionally skipped

Please also adjust the "(ii) NUMBER OF SEQUENCES:" response to include the skipped sequences

8____ Skipped Sequences (NEW RULES) — Sequence(s) _____ missing. If intentional, please insert the following lines for each skipped sequence
<210> sequence id number
<400> sequence id number
000

9____ Use of n's or Xaa's (NEW RULES) — Use of n's and/or Xaa's have been detected in the Sequence Listing.
Per 1.823 of Sequence Rules, use of <220>-<223> is MANDATORY if n's or Xaa's are present.
In <220> to <223> section, please explain location of n or Xaa, and which residue n or Xaa represents.

10____ Invalid <213> Response — Per 1.823 of Sequence Rules, the only valid <213> responses are: Unknown, Artificial Sequence, or scientific name (Genus/species). <220>-<223> section is required when <213> response is Unknown or is Artificial Sequence

11____ Use of <220> — Sequence(s) _____ missing the <220> "Feature" and associated numeric identifiers and responses.
Use of <220> to <223> is MANDATORY if <213> "Organism" response is "Artificial Sequence" or "Unknown." Please explain source of genetic material in <220> to <223> section.
(See "Federal Register," 07/01/1998, Vol. 63, No. 104, pp. 29631-32) (Sec. 1.823 of Sequence Rules)

12____ PatentIn 2.0 "bug" — Please do not use "Copy to Disk" function of PatentIn version 2.0. This causes a corrupted file, resulting in missing mandatory numeric identifiers and responses (as indicated on raw sequence listing). Instead, please use "File Manager" or any other manual means to copy file to floppy disk.

13____ Misuse of n/Xaa — "n" can only represent a single nucleotide; "Xaa" can only represent a single amino acid

AMC – Biotechnology Systems Branch – 09/09/2003

BEST AVAILABLE COPY

PCT

RAW SEQUENCE LISTING DATE: 07/08/2004
PATENT APPLICATION: **US/10/500,447** TIME: 15:49:04

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Output Set: **N:\CRF4\07082004\J500447.raw**

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Does Not Comply
Corrected Diskette Needed
(pg.1)

Invalid Response

mandatory, <213> Responses have to be artificial/unknown.

Invalid Response

mandatory, <213> Responses have to be artificial/unknown

Same error

Same error

↑ pls see item # 10 on error summary sheet.

RAW SEQUENCE LISTING DATE: 07/08/2004
PATENT APPLICATION: US/10/500,447 TIME: 15:49:04

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RAW SEQUENCE LISTING DATE: 07/08/2004
PATENT APPLICATION: **US/10/500,447** TIME: 15:49:04

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Output Set: **N:\CRF4\07082004\J500447.raw**

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VERIFICATION SUMMARY DATE: 07/08/2004
PATENT APPLICATION: **US/10/500,447** TIME: 15:49:05

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L:9 M:270 C: Current Application Number differs, Replaced Current Application No
L:9 M:271 C: Current Filing Date differs, Replaced Current Filing Date

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3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

In re Application of	:	
SHUSTER et al.	:	
Application No.: 10/500,449	:	DECISION
PCT No.: PCT/US02/41833	:	
Int. Filing Date: 31 December 2002	:	
Priority Date: 31 December 2001	:	
Attorney Docket No.: 14848-008US1	:	
For: METHODS AND MATERIALS FOR MODULATING P2X2	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 03 December 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 December 2002, applicants filed international application PCT/US02/41833, which designated the United States and claimed a priority date of 31 December 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 17 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2004.

On 29 June 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 30 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 10 December 2004, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, several declarations of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a petition/fee for a two month extension of time, and a declaration in support of the 37 CFR 1.47(a) petition by M. Angela Parsons.

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 06-1050.

Items (3) and (4) have been satisfied.

Item (2) has not been satisfied. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it is not clear that M. Angela Parsons has firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Additionally, it is not clear whether it is being alleged that non-signing inventor Ulf N.G. Arvidsson refuses to execute the application or that he cannot be reached after diligent effort. A communication was purportedly sent to Mr. Arvidsson's last known address at an undisclosed time. It is not clear whether Mr. Arvidsson resided at this address at the time. 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. To establish a refusal to execute, *inter alia*, the non-signing inventor must be presented with a copy of the application papers including the specification, claims and drawings. Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Arvidsson. Rather, the declaration of M. Angela Parsons suggests that only a combined Declaration/Power of Attorney document was sent to him. See MPEP § 409.03(d). If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request

should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

06 JUN 2006 → 6/6/06

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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M. Angela Parsons
Fish & Richardson, P.C.
3300 Dain Rauscher Plaza
60 South Sixth Street
Minneapolis, MN 55402

In re Application of	:	
Shuster, et al.	:	
Serial No.: 10/500,449	:	DECISION ON
PCT No.: PCT/US02/41833	:	PETITION
Int. Filing Date: 31 December 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 31 December 2001	:	
Attorney's Docket No.: 14848-008US1	:	
For: METHODS AND MATERIAL FOR MODULATING P2X2	:	

This decision is responsive to the "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed 13 February 2006.

BACKGROUND

On 31 December 2002, applicants filed international application PCT/US02/41850, which claimed priority of an earlier United States provisional application filed 31 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 July 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 June 2004.

On 29 June 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, the basic national fee and an assertion of small entity status. These papers were assigned Application No. 10/500,449.

On 30 August 2004, the United States Patent and Trademark mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a copy of the sequence listing in both paper and computer readable form and an amendment directing its entry into the specification. The notification set a two-month time period in which to respond.

On 03 December 2004, applicant filed a petition under 37 CFR 1.47(a) requesting that the application be accepted without the signature of Ulf N.G. Arvidsson. The petition was accompanied by several declarations of inventors, the surcharge for filing the declarations after thirty months from the priority date, a petition/fee for a two-month extension of time and a declaration of M. Angela Parsons.

On 31 January 2005, a decision was mailed to applicant indicating that the petition was dismissed because it was not clear that M. Angela Parsons had first hand knowledge of the facts. Also, it was not clear whether applicant was alleging that inventor Arvidsson could not be found or was refusing to sign. Further, it was not clear that inventor Arvidsson had ever been sent a copy of the application.

On 02 May 2005, applicant filed a renewed petition under 37 CFR 1.47(a). On 30 August 2005, a decision was mailed to applicant indicating that the petition was dismissed because it was not clear that inventor Arvidsson was no longer at his last known address. Additionally, Appendix A-H were not attached to the declaration as indicated.

On 13 February 2006, applicant filed a renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing, 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.

Applicant satisfied the requirements of (1), (3) and (4) in the earlier filed petition.

With respect to element (2), it should be noted that Appendix A-H, referred to in the supplemental declaration of M. Angela Parson filed 02 May 2005, were not received. Although the declaration states that they are attached to the petition, none were attached. Applicant needs to provide these attachments. Further, it is still not clear that inventor Arvidsson is no longer at his last known address. According to Ms. Parson's declaration, someone at that address did sign for a letter addressed to inventor Arvidsson. Ms. Parson's new declaration does not indicate whether inventor Arvidsson is refusing to sign or cannot be reached after diligent effort.

CONCLUSION

The petition under 35 U.S.C. 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 submit the proper response will result in **ABANDONMENT**. 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).

Should status under 37 CFR 1.47(a) not be successfully completed, the international application will be viewed as becoming abandoned with respect to the United State at midnight at the expiration of the time period set in this decision or as extended by any extension see timely paid under 37 CFR 1.136(a).

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

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PCT Special Programs Examiner
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30 AUG 2005

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Minneapolis, MN 55402

In re Application of	:	
Shuster, et al.	:	
Serial No.: 10/500,449	:	DECISION ON
PCT No.: PCT/US02/41833	:	PETITION
Int. Filing Date: 31 December 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 31 December 2001	:	
Attorney's Docket No.: 14848-008US1	:	
For: METHODS AND MATERIAL FOR MODULATING P2X2	:	

This decision is responsive to the "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed 02 May 2005.

BACKGROUND

On 31 December 2002, applicants filed international application PCT/US02/41850, which claimed priority of an earlier United States provisional application filed 31 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 July 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 June 2004.

On 29 June 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, the basic national fee and an assertion of small entity status. These papers were assigned Application No. 10/500,449.

On 30 August 2004, the United States Patent and Trademark mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a copy of the sequence listing in both paper and computer readable form and an amendment directing its entry into the specification. The notification set a two-month time period in which to respond.

On 03 December 2004, applicant filed a petition under 37 CFR 1.47(a) requesting that the application be accepted without the signature of Ulf N.G. Arvidsson. The petition was accompanied by several declarations of inventors, the surcharge for filing the declarations after thirty months from the priority date, a petition/fee for a two-month extension of time and a declaration of M. Angela Parsons.

On 31 January 2005, a decision was mailed to applicant indicating that the petition was dismissed because it was not clear that M. Angela Parsons had first hand knowledge of the facts. Also, it was not clear whether applicant was alleging that inventor Arvidsson could not be found or was refusing to sign. Further, it was not clear that inventor Arvidsson had ever been sent a copy of the application.

On 02 May 2005, applicant filed a renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing, 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.

Applicant satisfied the requirements of (1), (3) and (4) in the earlier filed petition.

With respect to element (2), it should be noted that Appendix A-H, referred to in the supplemental declaration of M. Angela Parson, were not received. Although the declaration states that they are attached to the petition, none were attached. Further, it is still not clear that inventor Arvidsson is no longer at his last known address. According to Ms. Parson's declaration, someone at that address did sign for a letter addressed to inventor Arvidsson. Applicant is reminded that the non-signing inventor must be presented with a copy of the entire application, and not just a copy of the declaration.

CONCLUSION

The petition under 35 U.S.C. 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 submit the proper response will result in **ABANDONMENT**. 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).

Should status under 37 CFR 1.47(a) not be successfully completed, the international application will be viewed as becoming abandoned with respect to the United State at midnight at the expiration of the time period set in this decision or as extended by any extension see timely paid under 37 CFR 1.136(a).

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

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Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

#15

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15 DEC 2006

M. Angela Parsons
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In re Application of	:	
Shuster, et al.	:	
Serial No.: 10/500,449	:	DECISION ON
PCT No.: PCT/US02/41833	:	RENEWED PETITION
Int. Filing Date: 31 December 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 31 December 2001	:	
Attorney's Docket No.: 14848-008US1	:	
For: METHODS AND MATERIAL FOR MODULATING P2X2	:	

This decision is responsive to the "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed 11 September 2006.

BACKGROUND

On 31 December 2002, applicants filed international application PCT/US02/41850, which claimed priority of an earlier United States provisional application filed 31 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 July 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 June 2004.

On 29 June 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, the basic national fee and an assertion of small entity status. These papers were assigned Application No. 10/500,449.

On 30 August 2004, the United States Patent and Trademark mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a copy of the sequence listing in both paper and computer readable form and an amendment directing its entry into the specification. The notification set a two-month time period in which to respond.

On 03 December 2004, applicant filed a petition under 37 CFR 1.47(a) requesting that the application be accepted without the signature of Ulf N.G. Arvidsson. The petition was accompanied by several declarations of inventors, the surcharge for filing the declarations after thirty months from the priority date, a petition/fee for a two-month extension of time and a declaration of M. Angela Parsons.

On 31 January 2005, a decision was mailed to applicant indicating that the petition was dismissed because it was not clear that M. Angela Parsons had first hand knowledge of the facts. Also, it was not clear whether applicant was alleging that inventor Arvidsson could not be found or was refusing to sign. Further, it was not clear that inventor Arvidsson had ever been sent a copy of the application.

On 02 May 2005, applicant filed a renewed petition including a supplemental declaration by M. Angela Parsons.

On 06 June 2006, the petition was dismissed because it was unclear whether inventor Arvidsson was refusing to sign or could not be reached after diligent effort.

On 11 September 2006, applicant filed the current petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing, 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.

Applicant has now satisfied the requirements of (1), (2), (3) and (4).

CONCLUSION

The petition under 35 U.S.C. 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 31 December 2002 under 35 U.S.C. 363, and a date of 03 December 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.

The application is being returned to the International Division 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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of :
LOR, Lean S. :
Application No. 10/500,467 : DECISION ON PETITION
Filed: July 15, 2004 : TO WITHDRAW
Attorney Docket No. 3821.08-US-01 : 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 15, 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 William L. Alexander 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.

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 28, 2006 does not include one of the above two options.

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

Monica A Graves
Petitions Examiner
Office of Petitions

cc: **LEAN SEN LOR**
20, LEBUH KURAU 11, TAMAN CHAI LENG
PRAI PENANG, MALAYSIA 13700

cc: **PINTAS IP GROUP SDN. BHD**
SUITE 6.03, 6TH FLOOR
WISMA MIRAMA JALAN WISMA PUTRA
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LOS ANGELES, CA 90067

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JAN 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Xuanming SHI :
Application No. 10/500,479 : DECISION ON PETITION
Filed: March 25, 2005 :
Attorney Docket No. 88538.0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 08, 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, May 01, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 02, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of May 01, 2007 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 2629 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

15 MAR 2005
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Paul Grandinetti
LEVY & GRANDINETTI
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1725 K Street, NW
Washington, D.C. 20006-1423

In re Application of	:	
CHESNEY, John, et al.	:	
U.S. Application No.:10/500,484	:	
PCT No.: PCT/GB03/00373	:	DECISION
International Filing Date: 29 January 2003	:	
Priority Date: 30 January 2002	:	
Attorney's Docket No.: GFR042US	:	
For: WATERCRAFT	:	

This decision is issued in response to applicants' "Response To Notice Of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495" filed 18 February 2005. No petition fee is required.

BACKGROUND

On 29 January 2003, applicants filed international application PCT/GB03/00373 which claimed a priority date of 30 January 2002 and which designated the United States. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 30 June 2004.

On 30 June 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. The submission did not include a declaration executed by the inventors.

On 24 January 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance that identified 30 June 2004 as the 35 U.S.C. 371 date and a filing receipt.

On 18 February 2005, applicants filed the submission considered herein. The submission states that the Notification Of Acceptance was mailed prematurely, as applicants had not previously submitted an oath or declaration of the inventors. The submission was accompanied by a declaration executed by the inventors.

DISCUSSION

A review of the application file confirms that, as indicated by applicants, the Notification Of Acceptance and filing receipt mailed 24 January 2002 were issued in error, prior to

applicants' completion of the 35 U.S.C. 371 requirements on 18 February 2005.[1] Accordingly, the Notification Of Acceptance and filing receipt mailed 24 January 2005 are hereby vacated.

The declaration filed by applicants with the present submission on 18 February 2005 completed the requirements of 35 U.S.C. 371. Accordingly, a corrected Notification Of Acceptance will be issued identifying 18 February 2005 as the date of receipt of the 35 U.S.C. 371 requirements, as well as a corrected filing receipt.

CONCLUSION

Applicants' request for a corrected Notification Of Acceptance is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 24 January 2005 are **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to continue processing of this application in accordance with this decision by (1) the mailing of a new Notification Of Acceptance which identifies the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 18 February 2005, and (2) issuance of a corrected filing receipt.

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

[1] The international application here contained inventor's declarations filed under PCT Rule 4.17(iv); however, these declarations are defective in that they do not each identify all the inventors.

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JUN 23 2008

OFFICE OF PETITIONS

In re Patent No. 7,323,465 :
Issue Date: January 29, 2008 :
Application No. 10/500,485 : NOTICE
Filed: June 29, 2004 :
Patentee(s): Martin Bolli, et. al. :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on February 20, 2008. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

06 APR 2005

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MINNEAPOLIS MN 55402

In re Application of SHUSTER et al.
Application No.: 10/500,493
PCT No.: PCT/US02/41751
Int. Filing: 31 December 2002
Priority Date: 31 December 2001
Attorney Docket No.: 14848-006US1
For: METHODS AND MATERIALS FOR MODULATING TRPC4

: DECISION ON
: PETITION
: UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 03 December 2004.

BACKGROUND

On 29 June 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 05 October 2004, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 03 December 2004, in response to the Notification of Missing Requirements, 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 Ulf N.G. Arvidsson.

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).

With regard to Item (1), Petitioner submitted $130 for the petition fee, satisfying Item (1).

Petitioner satisfied Item (4) with the submission of the declaration executed by the joint inventors on their behalf and on behalf of the non-signing inventor Ulf N.G. Arvidsson.

However, with respect to Item (3), Petitioner has provided a statement of the last known address of the non-signing inventor.

With respect to item (2), Petitioner states that Mr. Arvidsson is unavailable to sign the declaration, providing a statement of M. Angela Parsons, technologist specialist with Fish & Richardson. Ms. Parsons states:

> We diligently attempted to locate Ulf N.G. Arvidsson. We attempted to find any current contact information for Ulf N.G. Arvidsson using a number of different Search engines and Web pages on the Internet. Attempts were made to contact Ulf N.G. Arvidsson by telephone at his last known work number and home number. Our attempts to locate Ulf N.G. Arvidsson were unsuccessful.

As indicated in the MPEP Section 409.03(d), 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, diligent efforts made to locate Ulf N.G. Arvidsson were not pursued and documented, such as Internet searches, E-mail contact to obtain a current address, contact with his former employer or joint inventor to obtain a forwarding address or a request from the Postal Service for his forwarding address. 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. Petitioner's statement of facts under 37 CFR 1.47(a) merely states that a search for Ulf N.G. Arvidsson was unsuccessful. Since no attempts to locate inventor Ulf N.G. Arvidsson have been documented, it can not be concluded that "a diligent effort" was made to locate the non-signing inventor.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it cannot be concluded that Ulf N.G. Arvidsson is unavailable to sign the application. Petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/500,493 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2)Ulf N.G. Arvidsson's unavailability after petitioner's diligent effort or Ulf N.G. Arvidsson's refusal to sign, either in writing or orally, these documents. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed

within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

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18 AUG 2005

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In re Application of SHUSTER et al.
Application No.: 10/500,493
PCT No.: PCT/US02/41751
Int. Filing: 31 December 2002
Priority Date: 31 December 2001
Attorney Docket No.: 14848-006US1
For: METHODS AND MATERIALS FOR MODULATING TRPC4

: DECISION ON
: PETITION
: UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 08 June 2005.

BACKGROUND

On 29 June 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 05 October 2004, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 03 December 2004, in response to the Notification of Missing Requirements, 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 Ulf N.G. Arvidsson. On 06 April 2005, a decision dismissing the petition was mailed to applicant indicating that factual proof that the non-signing joint inventor refuses to execute the application after diligent effort had not been provided.

On 08 June 2005, applicant filed a renewed petition along with the supplemental declaration in support of 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 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).

Items (1),(3) and (4) were previously satisfied.

With respect to item (2), Petitioner previously argued that Mr. Arvidsson is unavailable to sign the declaration, providing a statement of M. Angela Parsons, technologist specialist with Fish & Richardson. A supplemental declaration of Ms. Parsons was submitted with the instant renewed petition. Ms. Parsons states that on 26 August 2004, she sent a declaration to Mr. Arvidsson's last known address via Federal Express (FedEx) (¶ 6). Ms. Parsons further states, that after several weeks had passed and she had not received the signed Declaration, she looked at the electronic signature of the receiving party that is provided on the FedEx website (¶9). According to Ms. Parsons, "[t]he signature did not appear to be that of Ulf G. Arvidsson. Unfortunately, this page was not printed and it is not available at this time." Ms. Parsons' further explains that when the FedEx tracking number is now entered into the system, the name of the receiving party is a computer-entered name and is no longer the electronic signature. A copy of the E-mail shipping statement from FedEx dated August 31, 2004 regarding the shipment sent from M. Angela Parsons/Fish &Richardson to Ulf N.G. Arvidsson was attached as Exhibit D. The shipping statement indicates that the "package was delivered on 08/31/04 at 11:51 AM and signed for or released by U. Arvidsson." Petitioner has not provided and in fact, now cannot provide a copy of the electronic signature to show that it was not Mr. Arvidsson's signature to demonstrate that Mr. Arvidsson did not receive the shipment. Petitioner has not provided any evidence showing that the signature on the delivery does not match Mr. Arvidsson's signature. Thus, it cannot be concluded that Mr. Arvidsson is not available. Moreover, the attempts to locate Mr. Arvidsson by Internet searches were not successful, which is consistent with the delivery to his last known address.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor at his last known address by providing a copy of the application papers including specification, claims and drawings to Mr. Arvidsson's last known address. *See* MPEP §409.03(d). Under these circumstances, it cannot be concluded that Ulf N.G. Arvidsson is unavailable to sign the application. Petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/500,493 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Ulf N.G. Arvidsson's unavailability after petitioner's diligent effort or Ulf N.G. Arvidsson's refusal to sign, either in writing or orally, these documents. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

It is noted that both Ms. Parsons' statement and her letters to each of the signing inventors indicate that she sent the inventors only declarations for five different U.S. applications. (Copies of her letters to each of the joint inventors were attached to her statement as Exhibit C.) In light of the above discussion, since the inventors were not provided with a copy of the complete application (that is, specification, claims and drawings), counsel is advised that each signing joint inventor should now be provided with a complete copy of the application papers (including specification, claims and drawings) for each application.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

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19 APR 2006

#9

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In re Application of SHUSTER et al. Application No.: 10/500,493 PCT No.: PCT/US02/41751 Int. Filing: 31 December 2002 Priority Date: 31 December 2001 Attorney Docket No.: 14848-006US1 For: METHODS AND MATERIALS FOR MODULATING TRPC4	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 13 February 2006. Petitioner requests a four month extension of time, which is granted.

BACKGROUND

On 03 December 2004, in response to the 05 October 2004 Notification of Missing Requirements, 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 Ulf N.G. Arvidsson. On 06 April 2005, a decision dismissing the petition was mailed to applicant indicating that factual proof that the non-signing joint inventor refuses to execute the application after diligent effort had not been provided.

On 08 June 2005, applicant filed a renewed petition along with the supplemental declaration in support of petition under 37 CFR 1.47(a). On 18 August 2005, a decision dismissing the petition was mailed to Petitioner indicating that Petitioner did not prove that "a diligent effort" was made to contact the nonsigning inventor at his last known address by providing a copy of the application papers including specification, claims and drawings to Mr. Arvidsson's last known address.

On 13 February 2006, Petitioner filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner has satisfied the requirements of (1)- (4) of 37 CFR 1.47(a).

With respect to item (2), Petitioner argues that Mr. Arvidsson refuses to sign the declaration, providing a supplemental declaration of M. Angela Parsons, technologist specialist with Fish & Richardson. Ms. Parsons states that on 19 September 2005, she sent a "a copy of the above-referenced U.S. application along with a Declaration and a postage-paid return envelope to Ulf N.B. Arvidsson at his last known address." (¶ 7) According to Ms. Parsons, the FedEx website indicated that the package was signed for on 21 September 2005 by N. Arvidsson. To date, Mr. Arvidsson has not responded to the correspondence.

The action taken by petitioner is sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor at his last known address by providing a copy of the application papers including specification, claims and drawings to Mr. Arvidsson's last known address. *See* MPEP §409.03(d). Under these circumstances, it can now be concluded that Ulf N.G. Arvidsson refuses to sign the application. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 03 December 2004. The application has an international filing date of 31 December 2002 under 35 U.S.C. 363, and a date of 03 December 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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19 APR 2006

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Ulf N.G. Arvidsson
Gardstigen 4
Lidingo, Sweden

In re Application of SHUSTER et al. Application No.: 10/500,493 PCT No.: PCT/US02/41751 Int. Filing: 31 December 2002 Priority Date: 31 December 2001 Attorney Docket No.: 14848-006US1 For: METHODS AND MATERIALS FOR MODULATING TRPC4	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Arvidsson:

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.

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16 FEB 2005

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In re Application of	:	
SHUSTER et al.	:	
Application No.: 10/500,499	:	DECISION
PCT No.: PCT/US02/41850	:	
Int. Filing Date: 31 December 2002	:	
Priority Date: 31 December 2001	:	
Attorney Docket No.: 14848-007US1	:	
For: METHODS AND MATERIALS FOR MODULATING ENAC-BETA	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 03 December 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 December 2002, applicants filed international application PCT/US02/41850, which designated the United States and claimed a priority date of 31 December 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 17 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2004.

On 29 June 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 26 August 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b), an initial or substitute computer readable form (CRF) of the "Sequence Listing", and an initial or substitute paper copy of compact disc of the "Sequence Listing" as well as an amendment directing its entry into the specification, were required. The NOTIFICATION set a two-month extendable period for reply.

On 03 December 2004, applicants filed, *inter alia*, a petition/fee for a two 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, a paper copy of the sequence listing as well as an

amendment directing its entry into the specification, a CRF of the sequence listing, and the instant petition under 37 CFR 1.47(a) which was accompanied by several declarations of inventors and a supporting declaration of facts by M. Angela Parsons.

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 06-1050.

Items (3) and (4) have been satisfied.

Item (2) has not been satisfied. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it is not clear that M. Angela Parsons has firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Additionally, it is not clear whether it is being alleged that non-signing inventor Ulf N.G. Arvidsson refuses to execute the application or that he cannot be reached after diligent effort. A communication was purportedly sent to Mr. Arvidsson's last known address at an undisclosed time. It is not clear whether Mr. Arvidsson resided at this address at the time. (The statement of facts indicates that the package was signed for by a person other than Ulf N.G. Arvidsson. Mr. Arvidsson may still reside at that address, however.) 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 mailing and did not respond. If the mailing was received and the inventor did not respond, then a refusal to execute the application would likely need to be established. To establish a refusal to execute, *inter alia*, the non-signing inventor must be presented with a copy of the application papers including the specification, claims and drawings. Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Arvidsson. Rather, the declaration of M. Angela Parsons suggests that only a combined Declaration/Power of Attorney document was sent to him. See MPEP § 409.03(d). If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

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

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In re Application of	:	
Shuster, et al.	:	
Serial No.: 10/500,499	:	DECISION ON
PCT No.: PCT/US02/41850	:	PETITION
Int. Filing Date: 31 December 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 31 December 2001	:	
Attorney's Docket No.: 14848-007US1	:	
For: METHODS AND MATERIAL FOR MODULATING ENAC-BETA	:	

This decision is responsive to the "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed 17 May 2005.

BACKGROUND

On 31 December 2002, applicants filed international application PCT/US02/41850, which claimed priority of an earlier United States provisional application filed 31 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 July 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 June 2004.

On 29 June 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, the basic national fee and an assertion of small entity status. These papers were assigned Application No. 10/500,499.

On 26 August 2004, the United States Patent and Trademark mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a copy of the sequence listing in both paper and computer readable form and an amendment directing its entry into the specification. The notification set a two-month time period in which to respond.

On 03 January 2004, applicant filed a petition under 37 CFR 1.47(a) requesting that the application be accepted without the signature of Ulf N.G. Arvidsson. The petition was accompanied by several declarations of inventors, the surcharge for filing the declarations after thirty months from the priority date, a petition/fee for a two-month extension of time and a declaration of M. Angela Parsons.

On 16 February 2005, a decision was mailed to applicant indicating that the petition was dismissed because it was not clear that M. Angela Parsons had first hand knowledge of the facts. Also, it was not clear whether applicant was alleging that inventor Arvidsson could not be found or was refusing to sign. Further, it was not clear that inventor Arvidsson had ever been sent a copy of the application.

On 17 May 2005, applicant filed a renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing, 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.

Applicant satisfied the requirements of (1), (3) and (4) in the earlier filed petition.

With respect to element (2), it is still not clear that inventor Arvidsson is no longer at his last known address. According to Ms. Parson's declaration, someone at that address did sign for a letter addressed to inventor Arvidsson. Applicant is reminded that the non-signing inventor must be presented with a copy of the entire application, and not just a copy of the declaration.

CONCLUSION

The petition under 35 U.S.C. 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 submit the proper response will result in **ABANDONMENT**. 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).

Should status under 37 CFR 1.47(a) not be successfully completed, the international application will be viewed as becoming abandoned with respect to the United State at midnight at the expiration of the time period set in this decision or as extended by any extension see timely paid under 37 CFR 1.136(a).

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

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#13

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17 JUL 2007

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In re Application of	:	
Shuster, et al.	:	
Serial No.: 10/500,499	:	DECISION ON
PCT No.: PCT/US02/41850	:	PETITION
Int. Filing Date: 31 December 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 31 December 2001	:	
Attorney's Docket No.: 14848-007US1	:	
For: METHODS AND MATERIAL FOR MODULATING ENAC-BETA	:	

This decision is responsive to the "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed 08 February 2006.

BACKGROUND

On 31 December 2002, applicants filed international application PCT/US02/41850, which claimed priority of an earlier United States provisional application filed 31 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 July 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 June 2004.

On 29 June 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, the basic national fee and an assertion of small entity status. These papers were assigned Application No. 10/500,499.

On 26 August 2004, the United States Patent and Trademark mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a copy of the sequence listing in both paper and computer readable form and an amendment directing its entry into the specification. The notification set a two-month time period in which to respond.

On 03 January 2004, applicant filed a petition under 37 CFR 1.47(a) requesting that the application be accepted without the signature of Ulf N.G. Arvidsson. The petition was accompanied by several declarations of inventors, the surcharge for filing the declarations after thirty months from the priority date, a petition/fee for a two-month extension of time and a declaration of M. Angela Parsons.

On 16 February 2005, a decision was mailed to applicant indicating that the petition was dismissed because it was not clear that M. Angela Parsons had first hand knowledge of the facts. Also, it was not clear whether applicant was alleging that inventor Arvidsson could not be found or was refusing to sign. Further, it was not clear that inventor Arvidsson had ever been sent a copy of the application.

On 17 May 2005, applicant filed a renewed petition. On 06 September 2005, a decision was mailed to applicant indicating that applicant had to be provided with a copy of both the application and the declaration.

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.

Applicant has now satisfied the requirements of (1), (2), (3) and (4).

CONCLUSION

The petition under 35 U.S.C. 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 31 December 2002 under 35 U.S.C. 363, and a date of 03 December 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.

The application is being returned to the International Division 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

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

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OFFICE OF PETITIONS

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

In re Application of Hughes :
Application No. 10/500,501 : Decision on Petition
Filing Date: June 29, 2004 :
Attorney Docket No. GB020001 :

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 3, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned at midnight on Monday, June 5, 2006. A Notice of Abandonment was mailed on October 23, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted a reply to the non-final Office action in the form of an amendment. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 2817 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

10 MAR 2005

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#7

Phillips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
VRIES et al.	:	
Application No.: 10/500,502	:	DECISION ON
PCT No.: PCT/IB02/05618	:	REQUEST UNDER 37 CFR 1.42
Int. Filing Date: 18 December 2002	:	
Priority Date: 04 January 2002	:	
Attorney Docket No.: NL020012	:	
For: SINTERED BODY AND ELECTRIC LAMP		

This is a response to applicants' "Notification of Missing Requirements under 35 U.S.C. 371" filed 22 February 2005 which is being treated as a Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 18 December 2002, applicants filed international application PCT/IB02/05618, which claimed a priority date of 04 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 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, 04 July 2004.

On 29 June 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and an information disclosure statement.

On 20 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 22 February 2005, applicants filed the present petition under 37 CFR 1.42. The declaration is executed by: Franciscus Vries as inventor and Henricus Josephus Kunnen on behalf of deceased inventor, Antonie Kees.

DISCUSSION

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

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

The declaration filed 22 February 2005 is executed by Henricus Josephus Kunnen as the "legal representative" of Antonie Kees and provides his residence, post office address and country of citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 18 December 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **22 February 2005**.

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6994036	2006-02-07	10500513	2004-06-28	2831089.00029

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Ralf Gilgen/	Date (YYYY-MM-DD)	2010-06-29
Name	Ralf Gilgen		
Enter Reel and Frame Number		Remove	
Reel Number	024555	Frame Number	0591
Enter Reel and Frame Number		Remove	
Reel Number	020793	Frame Number	0947
Enter Reel and Frame Number		Remove	
Reel Number	020794	Frame Number	0089
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6994036
Issue Date: February 7,2006
Application No. 10500513
Filed: June 28,2004
Attorney Docket No. SE-3508

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 29,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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P O BOX 2000
RAHWAY NJ 07065-0907

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Astles, et al. :
Application No. 10/500,517 : ON PETITION
Filed: June 29, 2004 :
Attorney Docket No. 22059P :
For: AZA-CYCLIC COMPOUNDS AS MODULATORS OF ACETYLCHOLINE RECEPTORS

This is a decision on the petition under 37 CFR 1.181, filed March 19, 2008 (certificate of mailing date March 17, 2008) to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the September 19, 2007 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on December 20, 2007. A Notice of Abandonment was mailed on January 16, 2008.

Petitioners allege that the September 19, 2007 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the requirements would have been entered had the September 19, 2007 Notice been received. In addition, practitioner referenced the docket record in the petition and stated that a search of the docket record and file jacket for the September 19, 2007 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the January 16, 2008 Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

As petitioners have submitted a completed PTOL-85(B) and the issue and publication fees, it is unnecessary to re-mail the September 19, 2007 Notice of Allowance and Fee(s) Due.

After the mailing of this decision, the application will be forwarded to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MAY 19 2006

Todd W. Wight
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

In re Application of HESKE et al.
Appl. No.: 10/500,518
Filed: March 1, 2005
For: BIOPSY DEVICE AND INSERTABLE BIOPSY NEEDLE MODULE

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed January 17, 2006 , to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document entitled page 68 of WO 00/30546 marked "Privileged & Confidential", filed October 1, 2004 be expunged from the record. "Materiality" is defined as any information which the examiner considers as being important to a determination of patentability of the claims.

The petition is deficient because: 1) the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted.

Petitioner may request reconsideration of the petition. Any such request must be resubmitted within two months of the mailing date of this decision and supply the omitted statements. Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449.

PETITION DISMISSED.

Frederick R. Schmidt, Director
Technology Center 3700

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555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
HESKE, et al. :
Application No. 10/500,518 : DECISION ON PETITION
Filed: March 01, 2005 : TO WITHDRAW
Attorney Docket No. 2979912004300 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Application has been transferred to another firm," are not appropriate since it does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: PROSKAUER ROSE LLP
1001 Pennsylvania Avenue, N.W.
Suite 400 South
Washington, D.C. 20036-2396

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OFFICE OF PETITIONS

In re Application of :
HESKE, et al. :
Application No. 10/500,518 : DECISION ON PETITION
Filed: March 01, 2005 : TO WITHDRAW
Attorney Docket No. 2979912004300 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 03, 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 Todd W. Wight on behalf of all attorneys of record who are associated with Customer No. 25224. All attorneys/agents associated with the Customer No. 25224 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 the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: NORBERT HESKE
DORFSTRABE 22A
KOTTGEISERING, 82288
GERMANY

cc: PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/500,518	03/01/2005	Norbert Heske	2979912004300

CONFIRMATION NO. 6401

OC000000021598135

25224
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

Date Mailed: 12/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2006.

- 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.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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NORBERT HESKE
DORFSTRABE 22A
KOTTGEISERING 82288 DE GERMANY

AUG 20 2007

In re Application of: Norbert HESKE et al.
Serial No.: 10/500,518
Filed: March 1, 2005
Title: BIOPSY DEVICE AND BIOPSY NEEDLE MODULE THAT CAN BE INSERTED INTO THE BIOPSY DEVICE

DECISION ON PETITION UNDER 37 C.F.R. 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed January 17, 2006 to expunge information from the above identified application.

The petition is granted.

Petitioner requests that one page of information unintentionally submitted in an Information Disclosure Statement filed on October 1, 2004 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 information in question has been determined by the undersigned to not be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

Any questions regarding this decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of
Norbert Heske et al.
Application No. 10/500,518
Filed: March 1, 2005
Attorney Docket No. 297912004300

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 April 22, 2008.

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 Vincent J. Belusko and all attorneys/agents of record has been revoked by the assignee of the patent application on December 21, 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 above-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, NW
Suite 400 South
Washington, DC 20004

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Todd W. Wight
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

In re Application of HESKE et al.
Appl. No.: 10/500,522
Filed: April 6, 2005
For: VACUUM BIOPSY DEVICE

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed January 17, 2006, to expunge information from the above identified application.

The petition is dismissed.

Petitioner requests that a document entitled page 68 of WO 00/30546 marked "Privileged & Confidential", filed October 1, 2004 be expunged from the record. "Materiality" is defined as any information which the examiner considers as being important to a determination of patentability of the claims.

The petition is deficient because: 1) the petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted.

Petitioner may request reconsideration of the petition. Any such request must be resubmitted within two months of the mailing date of this decision and supply the omitted statements. Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449.

PETITION DISMISSED.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Todd W. Wight
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

SEP 25 2006

In re Application of HESKE et al.
Appl. No.: 10/500,522
Filed: April 6, 2005
For: VACUUM BIOPSY DEVICE

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed January 17, 2006 and renewed on June 19, 2006, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a page of a document, in particular page 68, following Figure 13 and marked "privileged and confidential" of WO 00/30546 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 decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file. The information has been closed from public view for the remainder of prosecution.

Questions concerning this decision should be directed to Special Programs Examiner J. Harrison at 571-272-4449.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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MORRISON & FOERSTER, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
HESKE, et al. :
Application No. 10/500,522 : DECISION ON PETITION
Filed: April 06, 2006 : TO WITHDRAW
Attorney Docket No. 297912004400 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). While the reasons may be provided by referencing a specific portion of 37 CFR 10.40, the reasons must deal with actions by the client. The reasons set forth in the request, "Application transferred to another firm," are not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel.

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 Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: PROSKAUER ROSE LLP
1001 Pennsylvania Ave., N.W.
Suite 400 South
Washington, DC 20036-2396

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
HESKE, et al. :
Application No. 10/500,522 : DECISION ON PETITION
Filed: April 06, 2005 : TO WITHDRAW
Attorney Docket No. 297912004400 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 03, 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 Todd W. Wight on behalf of all attorneys of record who are associated with Customer No. 25224. All attorneys/agents associated with the Customer No. 25224 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 the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: NORBERT HESKE
DORFSTRABE 22A
KOTTGEISERING, 82288
GERMANY

cc: PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/500,522	04/06/2005	Norbert Heske	297912004400

CONFIRMATION NO. 6406

OC000000021597979

25224
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

Date Mailed: 12/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2006.

- 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.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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SUITE 3500
LOS ANGELES, CA 90013-1024

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
HESKE, Norbert et al. :
Application No. 10/500,522 : DECISION ON PETITION
Filed: April 06, 2005 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 22, 2008.

The request is not approved because it is **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 June 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PROSKAUER ROSE LLP**
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

13 JAN 2005

#3

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William C. Rowland
Burns, Doane, Swecker, & Mathis LLP
P.O. Box 1404
Arlington, VA 22313-1404

In re Application of :
LANDBERG, Erik :
Application No.: 10/500,552 : DECISION ON PETITION
PCT No.: PCT/SE02/02121 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 21 November 2002 :
Priority Date: 21 December 2001 :
Attorney Docket No.: 016901-146 :
For: TO A DATA NETWORK RELATED ARRANGEMENT (BILATERAL)

The petition to revive under 37 CFR 1.137(b) filed 30 June 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 along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

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

01 MAR 2005

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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of :
LANDBERG, Erik :
U.S. Application No.: 10/500,555 :
PCT No.: PCT/SE02/02120 :
Int. Filing Date: 21 November 2002 :
Priority Date: 21 December 2001 :
Attorney Docket No.: 016901-145 :
For: TO A DATA NETWORK RELATED ARRANGEMENT (MULTILATERAL) :

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

Applicant's "Petition to Revive Under 37 CFR 1.137(b)" filed with the national stage papers on 30 June 2004 is hereby **GRANTED** as follows:

The basic national fee and the petition fee for a small entity have been paid. Applicant states that "the entire delay in filing the required reply, i.e., the national stage filing, 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 $130.00 surcharge fee pursuant to 37 CFR 1.492(e) are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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DEC 12 2007

OFFICE OF PETITIONS

In re Application of :
Masato Tanaka et al :
Application No. 10/500,560 : DECISION ON PETITION
Filed: June 30, 2004 :
Attorney Docket No. SAE-0027 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2007, 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.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 7, 2006, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 8, 2007.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of November 7, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on June 7, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282.

This application is being referred to Technology Center AU 1623 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

04 APR 2005

#6

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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20037

In re Application of
TAKENDAKA et al.
Application no.: 10/500,581
Int. Application No.: PCT/JP03/05748
Int. Filing Date: 08 May 2003
Priority Date: 13 September 2002
Attorney Docket No.: Q81943
For: DRIVE UNIT

DECISION

This decision is in response to applicants' "Petition under 37 CFR 1.182 Requesting Recognition of Correction of Inventor's Name" filed in the Patent and Trademark Office (PTO) on 04 March 2005. Applicants are requesting to change the name of the third inventor from Kouzou Yamaguchi to Kozo Yamaguchi. The $400 petition fee has been submitted.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 05 November 2004 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Kouzou Yamaguchi to KOZO Yamaguchi is **GRANTED**. This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing

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

06 JAN 2005

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of
WEBJÖRN
Serial No.: 10/500,583
PCT App. No.: PCT/SE02/02448
Int'l Filing Date: 20 December 2002
Priority Date: 28 December 2001
Attorney Docket No.: P/4447-3 (PCT)
For: FLANGE MEMBER COMPRISING A FIRST FLANGED END DESIGNED WITH A, IN A RADIAL DIRECTION, CONCAVE ENDSURFACE AND A FLANGE JOINT COMPRISING FLANGE MEMBERS

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 June 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 $460 was provided. The required petition fee of $665 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **29 June 2004.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD., Suite 1200
DURHAM NC 27707

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APR 30 2008

OFFICE OF PETITIONS

In re Application of:	:	
Zou et al.	:	
Application No. 10/500587	:	DECISION GRANTING
Filing or 371(c) Date: 10/21/2004	:	PETITION UNDER
Title of Invention:	:	37 CFR § 1.183
PROBE CORRECTION FOR GENE	:	
EXPRESSION LEVEL DETECTION	:	

This Decision is in response to the "Petition for Waiver of Signature of Unavailable Inventors Under 37 C.F.R. § 1.183," filed March 7, 2008.

The petition is **granted**.

The application as-filed identified six inventors as the inventive entity: Guangzhou Zou, Hur-Song Change, Yiping Fan, Fan Long, Xun Wang and Tong Zhu. A nonfinal Office action was mailed on September 7, 2007. In response to the Office action, Applicant filed an Amendment and a Declaration Pursuant to 37 C.F.R. § 1.131, executed by co-inventors Guangzhou Zou, Song Chang and Tong Zhu only. Applicant files the present petition and states that the inventors Yiping Fan, Fan Long, Xun Wang refuse to execute the Declaration. In support of this assertion, applicant provides that the nonsigning inventors were mailed to their last known addresses a copy of the Declaration; a copy of the Office action dated December 7, 2006; a copy of the Office action dated September 7, 2007; a copy of two references, and a listing of the claims .

The MPEP 715.04, Swearing back of Reference, Affidavit or Declarant Under 37 CFR 1.131, provides in relevant part

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the

> proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

This section states that a party qualified under 37 CFR 1.42, 1.43 or 1.47 may make the affidavit when it is not possible to produce the affidavit or declaration of the inventor, and that waiver of the signature requirement of the unavailable inventor may be demonstrated by proof similar to that required in a petition under 37 CFR 1.47. In discussing waiver requirements under 37 CFR 1.183, the Office is guided by proof similar to that required when an Applicant is unavailable. In this instance, Applicant asserts that the inventors refuse to join in the Declaration.

Analysis and Conclusion

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

Petitioner has shown that the non-signing inventors, Yiping Fan, Fan Long, Xun Wang, refuse to execute the Affidavit.

The petition is granted. The application is being referred to Technology Center Art Unit 1631 for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

24 JAN 2005

#3

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Kenneth I. Kohn
Kohn & Associates, PLLC
30500 Northwestern Highway, Suite 410
Farnington Hills, Michigan 48334

In re Application of :
HADDEN et al. :
Application No.: 10/500,602 : DECISION ON PETITION
PCT No.: PCT/US02/23765 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 26 July 2002 :
Priority Date: 27 July 2001 :
Attorney Docket No.: 3115.00066 :
For: ADJUVANT FORMULATIONS FOR :
BACTERIAL AND VIRUS VACCINES
AND METHOD OF MAKING SAME

The petition to revive under 37 CFR 1.137(b) filed 30 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
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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RANKIN HILL PORTER & CLARK LLP
4080 ERIE STREET
WILLOUGHBY, OH 44094-7836

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JUL 18 2006

OFFICE OF PETITIONS

In re Application of :
Honami Oosawa et al :
Application No. 10/500,603 : DECISION GRANTING PETITION
Filed: June 30, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NIS-15538 :

This is a decision on the petition, filed July 14, 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 15, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3745 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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FRISHAUF, HOLTZ, GOODMAN
& CHICK, PC
220 FIFTH AVENUE
16TH FLOOR
NEW YORK, NY 10001-7708

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of
Hagai YEDIDYA
Application No. 10/500,607
Filed: January 21, 2005
Attorney Docket No. 04436/LH

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 14, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, unable to contact applicant, mailed reporting and follow-up letters to applicant, both were returned, does not meet any of the conditions set forth in 37 CFR 10.40.

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

There is an outstanding Office action mailed February 22, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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16 AUG 2007

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE CA 95131

In re Application of	:	
GASMI et al.	:	
Application No.: 10/500,619	:	DECISION ON
PCT No.: PCT/IB02/05619	:	
Int. Filing Date: 18 December 2002	:	PETITION UNDER
Priority Date: 28 December 2001	:	
Attorney Docket No.: FR01 0194US	:	37 CFR 1.137(b)
For: REGENERATING AMPLIFIER CIRCUIT	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed 19 December 2005.

BACKGROUND

On 18 December 2002, applicant filed international application PCT/IB02/05619 which designated the U.S. and claimed a priority date of 28 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 June 2004.

On 30 June 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 declaration of the inventors.

On 15 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to pay the full U.S. Basic National Fee within thirty months of the earliest priority date.

On 19 December 2005, applicants filed the instant petition under 37 CFR 1.137(b) to revive the application.

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 30 July 2004.

As to item (2), applicant submitted the petition fee on 19 December 2005.

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

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

Declaration of Inventors

The declaration of the inventors filed 30 June 2004 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage has been charged to Deposit Account 141270.

CONCLUSION

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Patent No. : 7,2165,780 B2
Serial No. : 10/500,621
Inventor(s) : Segura
Issued : January 23, 2007
Title : **PULL-BACK MECHANISM FOR A COVERING FLAP OF AN AIR BAG SYSTEM**
Docket No. : **SEGURA**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 1.182 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

A certificate of correction will be issued for the remaining errors noted in your request.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10017

ecw

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10017

In re Application of	:	
Jose Maria Segura	:	
Application No. 10/500,621	:	
Filing Date: June 29, 2004	:	DECISION ON PETITION
Patent No. 7,165,780	:	PURSUANT TO 37 C.F.R.
Issue Date: January 23, 2007	:	§ 3.81(B)
Attorney Docket Number: SEGURA	:	
Title: PULL-BACK MECHANISM FOR A	:	
COVERING FLAP OF AN AIR BAG	:	
SYSTEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b),[1] filed October 30, 2008, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED**.

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner submits a "Certificate of Correction" for this purpose, which indicates that the name of the Assignee should be changed from "Peguform GmbH & Co KG" to "Peguform GmbH."

1 See Official Gazette, June 22, 2004.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

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

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records conform that an assignment was received in the Office on March 22, 2005.

Both the required $130 processing fee and the required $100 certificate of correction fee will be charged to Petitioner's Deposit Account in due course, as authorized on the second page of this petition.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

It is noted in passing that the zip code listed on the petition differs from that of the address of record, and that in a telephonic discussion on May 7, 2009, Petitioner confirmed that the official address of record is the correct address.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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SQUIRE, SANDERS & DEMPSEY L.L.P.
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8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Ruutu et al.	:	
Application No. 10/500,632	:	ON PETITION
Filed: July 2, 2004	:	
Attorney Docket No. 59643.00408	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 14, 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 (with fee); (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 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana C. Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

23 NOV 2004

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BROWDY & NEIMARK
624 Ninth Street, N.W., Suite 300
Washington, D.C. 20001

In re Application of:	:	
SELA, Yoram	:	DECISION ON PETITION TO
U.S. Application No.: 10/500,634	:	REVIVE ABANDONED
PCT No.: PCT/IL02/00890	:	APPLICATION UNDER 37
International Filing Date: 07 November 2002	:	CFR 1.137(b)
Priority Date: 13 November 2001	:	
Attorney's Docket No.: SELA5	:	
For: EXTENDED RELEASE COMPOSITIONS COMPRISING AS ACTIVE COMPOUND VENLAFAXINE	:	

The petition to revive under 37 CFR 1.137(b) filed 02 July 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 (May 13, 2004) for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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

01 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Dana L. Tangren
Workman, Nydegger & Seeley
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

In re Application of :
TAPANES, Edward Edwardo :
Application No.: 10/500,642 :
PCT No.: PCT/AU02/00007 :
Int. Filing Date: 04 January 2002 :
Priority Date: None :
Attorney Docket No.: 13070.22 :
For: PERIMETER SECURITY AND
PERIMETER MONITORING METHOD

DECISION ON
PAPERS UNDER 37 CFR 1.181

This decision is in response to applicant's "Response to Notification of Abandonment" filed on 17 December 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 04 January 2002, applicant filed international application PCT/AU02/00007 which claimed a priority date of 07 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 07 September 2003.

On 18 August 2003, the International Bureau mailed a Notification of Withdrawal of Priority Claim (Form PCT/IB/317) which indicated that the applicant withdrew its priority claim on 04 August 2003. Hence, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, 07 July 2004.

On 01 July 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 an assignment.

On 06 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant failed to timely pay the full basic national fee.

On 17 December 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The transmittal letter and the accompanied papers filed 01 July 2004 are located in the application file. A review of the finance records for this application together with the other evidence of record reveals that a payment of $540.00 for the basic national fee for this application was received on 01 July 2004.

The transmittal letter correctly identifies the international application number of the international application and the box adjacent item 3 of the transmittal letter was marked requesting national examination procedures to commence. No priority date was claimed on the transmittal letter and a review of the Notification of Abandonment mailed 06 December 2004 reveals that a priority date of 07 March 2001 was indicated thereon. Apparently, the withdrawal of the priority claim as indicated on the Notification (Form PCT/IB/317) of record was not taken into account in computing the thirty-month due date for the basic national fee prior to mailing the Notification of Abandonment as required under PCT Rule 90bis.3(d). Accordingly, the receipt of the basic national fee on 01 July 2004 was timely in view of the timely withdrawal of the priority claim.

The declaration filed 01 July 2004 complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notification of Abandonment mailed 06 December 2004 is hereby **VACATED**.

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

23 MAY 2005

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DELLETT AND WALTERS
P. O. BOX 2786
PORTLAND OR 97208-2786

In re Application of	:	
KUTYEV	:	
Application No.: 10/500,659	:	DECISION ON
PCT No.: PCT/RU02/00536	:	
Int. Filing Date: 18 December 2002	:	PETITION UNDER
Priority Date: 19 December 2001	:	
Attorney Docket No.: V-288	:	37 CFR 1.137(b)
For: INDIVIDUAL MEANS FOR PRODUCING SPUMESCENT OXYGEN COCKTAIL AND THE OXYGEN CYLINDER THEREFOR	:	

This decision is in response to applicants' submission filed 30 June 2004.

BACKGROUND

On 18 December 2002, applicants filed international application PCT/RU02/00536 which designated the U.S. and claimed a priority date of 19 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 26 June 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 May 2004.

On 30 June 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, an assertion of small entity status, and a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 30 June 2004.

As to item (2), applicant submitted the petition fee on 30 June 2004.

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

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

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the declaration later than thirty months from the priority date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Carsten Springhorn	: DECISION ON REQUEST FOR
Patent Number	: 7628900	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/500,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1297** 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.

FOLEY HOAG, LLP
PATENT GROUP (w/ISA)
155 SEAPORT BLVD.
BOSTON MA 02210-2600

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OFFICE OF PETITIONS

In re Application of :
Beesley et al. : DECISION ON PETITION
Application No. 10/500,662 :
Filed: February 10, 2005 :
Attorney Docket No. ISA-026.01:

This is in response to the PETITION UNDER 37 C.F.R. §1.181(a) FOR WITHDRAWAL OF HOLDING OF ABANDONMENT filed June 7, 2007.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed November 2, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective February 3, 2007. A courtesy Notice of Abandonment was mailed on May 17, 2007.

Petitioner asks the Office to reconsider and withdraw the holding of abandonment because they filed a proper reply to the Office action on May 2, 2007. In support thereof, petitioner submits a copy of the electronic acknowledgment receipt.

Consideration of petitioner's evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of May 2, 2007.

Accordingly, the Notice of Abandonment mailed May 17, 2007 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1641 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

03 MAR 2005

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VAN OPHEM & VANOPHEM, PC
REMY J VANOPHEM, PC
51543 VAN DYKE
SHELBY TOWNSHIP, MI 48316-4447

In re Application of KELLERER	:	
U.S. Application No.: 10/500,678	:	
PCT Application No.: PCT/EP03/00006	:	
Int. Filing Date: 02 January 2003	:	
Priority Date Claimed: 03 January 2002	:	DECISION
Attorney Docket No.: BHB167A US	:	
For: COLLAPSIBLE CONTAINER COMPRISING A CONTAINER BASE AND FOUR COLLAPSIBLE LATERAL WALLS	:	

This is in response to applicant's "Petition for Maintaining Filing Date as Date of Deposit" filed 18 February 2005.

BACKGROUND

On 02 January 2003, applicant filed international application PCT/EP03/00006, which claimed priority of an earlier Germany application filed 03 January 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 03 July 2004.

On 02 July 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 22 December 2004, applicant filed an executed declaration.

On 21 January 2005, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated 22 December 2004 as the date of completion of the 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements.

On 18 February 2005, applicant filed the present petition.

DISCUSSION

The petition requests that the application be accorded a filing date of 02 July 2004 and further requests issuance of a corrected filing receipt. Because the filing date for a U.S. national stage application under 35 U.S.C. 371 is the international filing date, the filing date for the present application is 02 January 2003. The date of completion of the 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 22 December 2004, i.e. the date the executed declaration was submitted. As discussed in MPEP 1893.03(b), the date of completion of the 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is not equivalent to the actual filing date, and issuance of a corrected filing receipt is not indicated in the present case.

CONCLUSION

For the reasons above, the petition is DISMISSED without prejudice.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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JAN 21 2009

In re Application of :

PINES, Mark et al. :
Application No. 10/500,690 : DECISION ON PETITION
Filed: August 15, 2005 : TO WITHDRAW
Attorney Docket No. **COLL/016** : 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 20, 2008.

The request is **APPROVED**.

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

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

All future correspondence will be directed to the first named inventor Mark Pines at the address indicated below.

There is an outstanding Office action mailed November 13, 2008 that requires a reply from the 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: **MARK PINES**
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MAILED

AUG 25 2009

OFFICE OF PETITIONS

In re Application of :
Michael Chopp :
Application No. 10/500,694 : DECISION ON PETITION
Filed: July 1, 2004 :
Attorney Docket No. 1059.00106 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed December 4, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on June 26, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business on the reply received June 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

11 JAN 2005

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#3

John Haurykiewicz
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In re Application of	:
Geza METZGER	: DECISION ON
US Application No.: 10/500,698	:
PCT Application No.: PCT/EP02/08304	: PETITION UNDER
Int. Filing Date: 25 July 2002	:
Priority Date: 26 July 2001	: 37 CFR 1.137 (b)
Attorney's File Reference: 51896293889	:
For: CLEANING DEVICE OF A POWDER COATING BOOTH	

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 02 July 2004 is **GRANTED**.

BACKGROUND

On 20 December 2002, applicants filed international application PCT/EP02/08304. The international application claims a priority date of 26 July 2001 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 02 February 2003. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 26 January 2004. The application became abandoned as of midnight on 26 January 2004 for failure to pay the basic national fee.

On 02 July 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) (including a Transmittal Letter and a Preliminary Amendment), an executed declaration, and the petition fee of $1330.

DISCUSSION

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

application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage. A proper reply requires payment of the basic national fee and submission of a copy of the international application, if such a copy has not already been communicated by the International Bureau

The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

Applicants have satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 25 July 2002 under 35 U.S.C. 363 and a date of 02 July 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.

Ula Ruddock
Ula Ruddock
PCT Legal Administration Detailee
PCT Special Programs Office
Telephone: 571-272-6094

Leonard Smith
PCT Legal Examiner
PCT Legal Office

10 MAR 2005

#6

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In re Application of: VAN DYK, Andre
U.S. Application No.: 10/500,704
PCT No.: PCT/ZA02/00212
Int'l Filing Date: 17 December 2002
Priority Date: 03 January 2002
Attorney's Docket No.: 2004_1031A
For: ELEMENT FOR INITIATING PROPELLANT

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to the "Petition Under 37 CFR 1.47(b)" filed 25 February 2005. Petitioner has paid the required petition fee.

BACKGROUND

On 17 December 2002, applicant filed international application PCT/ZA02/00212 which claimed a priority date of 03 January 2002 and which designated the United States. On 10 July 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., 03 July 2004.

On 02 July 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.

On 06 January 2005, 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 acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 25 February 2005, petitioner filed the petition under 37 CFR 1.47(b) considered herein. The petition seeks acceptance of the application without the signature of the sole inventor, Andre VAN DYK.

DISCUSSION

A grantable petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17; (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 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 present petition satisfies items (1), (3), (4), and (6).

Regarding item (2), section 409.03(d) of the MPEP requires that the nonsigning inventor first be provided with a copy of the complete application papers, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, petitioner has provided copies of correspondence from the person who attempted to communicate with the nonsigning inventor. However, the petition does not include a firsthand statement from this person confirming the specific efforts made to obtain the nonsigning inventor's signature, and confirming that the inventor was provided with a copy of the complete application papers. Absent this firsthand statement, item (2) is not considered satisified.

Regarding item (5), section 409.03(f) states that: "If the application has been 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. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)." Here, petitioner has provided a copy of an assignment in which the nonsigning inventor assigns the international application (and the right to "apply for patents anywhere" based on the application) to NXCO International Limited, the 37 CFR 1.47(b) applicant. However, petitioner has not provided the required statement under 37 CFR 3.73(b) by the assignee. Until such statement is provided, item (5) is not considered satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice. If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)" and must include the materials necessary to satisfy the outstanding requirements for a grantable petition, as discussed 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.

Richard M. Ross
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PCT Legal Office
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01 JUL 2005

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In re Application of: VAN DYK, Andre	:	
U.S. Application No.: 10/500,704	:	DECISION ON PETITION UNDER
PCT No.: PCT/ZA02/00212	:	37 CFR 1.47(b)
Int'l Filing Date: 17 December 2002	:	
Priority Date: 03 January 2002	:	
Attorney's Docket No.: 2004_1031A	:	
For: ELEMENT FOR INITIATING PROPELLANT	:	

In a decision mailed by this Office on 10 March 2005, the petition under 37 CFR 1.47(b) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted adequate evidence that the nonsigning inventor had been presented with copies of the complete application and refused to sign, and the 37 CFR 1.47(b) applicant had not provided a statement under 37 CFR 3.73(b).

On 10 June 2005, petitioner filed the renewed petition considered herein (with required petition fee). The renewed petition, in combination with the materials included with the original petition, are sufficient to satisfy the requirements for a grantable petition under 37 CFR 1.47(b).

The renewed petition under 37 CFR 1.47(b) is **GRANTED**. The application is accepted without the signature of inventor Andre VAN DYK.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the inventor of the application will be forwarded to the nonsigining inventor at his last-known address, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 25 February 2005.

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01 JUL 2005

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Mr. Andre VAN DYK
223 Eland Street
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Centurion
0002 Pretoria
SOUTH AFRICA

In re Application of: VAN DYK, Andre
U.S. Application No.: 10/500,704
PCT No.: PCT/ZA02/00212
Int'l Filing Date: 17 December 2002
Priority Date: 03 January 2002
Attorney's Docket No.: 2004_1031A
For: ELEMENT FOR INITIATING PROPELLANT

Dear Mr. VAN DYK:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b). Should a patent be granted, you will be designated as an inventor.

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

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Counsel Of Record:
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24 MAR 2005

#4

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In re Application of :
DYK, Andre Van :
U.S. Application No.: 10/500,705 :
PCT No.: PCT/ZA02/00211 : **DECISION**
Int. Filing Date: 17 December 2002 :
Priority Date: 03 January 2002 :
Attorney's Docket No.: 2004_1032A :
For: EXPLOSIVE PRESSURE WAVE :
CONCENTRATOR :

The decision is in response to the "Petition Under 37 C.F.R. § 1.47(b)" ("Pet.") submitted on 01 February 2005.

BACKGROUND

On 01 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee was required. Petitioners were given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 01 February 2005, the 37 CFR 1.47(b) applicant submitted the instant petition which was accompanied by, *inter alia*, a $200.00 petition fee; a $65.00 surcharge fee; a one-month extension fee of $60.00; a copy of a letter dated 06 December 2004 ("Exh. A"); copies of letters and an email sent to the nonsigning inventor ("Exh. B"); a copy of an Assignment signed by the nonsigning inventor ("Exh. C"); and a copy of a declaration signed by the 37 CFR 1.47(b) applicant ("Exh. D").

DISCUSSION

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (3) a statement of the last known addresses of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The appropriate petition fee has been paid. The last known address of the sole inventor, Andre van Dyk, is listed as:

223 Eland Street
Wierda Park
Centurion
0002 Pretoria
South Africa

Regarding item (4), the 37 CFR 1.47(b) applicant provided declaration listing the name, residence, mailing address and citizenship of the sole inventor and signed by Edward Tota, General Manager of NXCO International Limited. Section 409.03(b) of the MPEP states that "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP § 324."

Section 324 of the MPEP states, in part:

> The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):
>
> (A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii) . . . A person having a title (**manager**, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee.
>
> (B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).

The position of General Manager is <u>not</u> a position that is assumed to have the authority to sign for the assignee. However, the 37 CFR 1.47(b) applicant declares that "Mr. Tota is an authorized representative of the corporation." Pet. at ¶ 5. The declaration complies with 37 CFR 1.497(a) and (b). This is sufficient to satisfy item (4).

With regard to item (6), section 409.03(g) of the Manual of Patent Examining Procedure (MPEP) states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." In the petition, the 37 CFR 1.47(b) applicant includes

such a statement. *Id.* at ¶ 5.

Thus, items (1), (3), (4) and (6) of 37 CFR 1.47(b) are completed.

Concerning item (2), the 37 CFR 1.47(b) applicant claims that the sole inventor has not responded to letters and an email requesting cooperation in the subject application. Section 409.03(d) of the MPEP discusses the requirements needed to show that an inventor refuses to join in an application and states, in part:

> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Here, the 37 CFR 1.47(b) applicant has provided evidence that a complete copy of the application, including specification, claims and drawings was sent via email to Mr. van Dyk. Other correspondence was also sent to the last known address of Mr. van Dyk. The petitioner provided copies of these letters and the email as required by MPEP § 409.03(d). Petitioner declares that despite these attempts "no response has been received from Mr. van Dyk." *Id.* at ¶ 3. No other evidence was presented.

To show that a nonsigning inventor's conduct constitutes a refusal, petitioner must demonstrate that the inventor has knowledge of the application in question. Here, it is not clear whether the nonsigning inventor received the documents discussed above. There is no indication that the 37 CFR 1.47(b) applicant contacted Mr. van Dyk directly and no evidence showing that an attempt was made to determine whether the nonsigning inventor still lives at the address listed. In addition, there was no response to the email sent 17 December 2004 containing a copy of the subject application despite a statement in the email requesting Mr. van Dyk to acknowledge or reply promptly. Petitioner must show that the nonsigning inventor received the documents in question and has not responded, or demonstrate that a diligent effort was made to locate Mr. van Dyk. For these reasons, item (2) is not satisfied.

With regards to item (5), section 409.03(f) of the MPEP 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:
>
> (A) the invention has been assigned to the applicant, . . .

If the application has been 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. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324).

The 37 CFR 1.47(b) applicant claims proprietary interest in the above-captioned national stage application of PCT/ZA02/00211 through an assignment. Petitioner submitted a copy of an assignment dated 05 December 2002 executed by the sole inventor which assigned: (a) the patent application (PCT/ZA02/00211); (b) the invention; and, (c) the right to apply for patents in respect fo the invention the assignment taking effect on the filing date of the patent application to NXCO International Limited (the 37 CFR 1.47(b) applicant).

The assignment clearly indicates that the 37 CFR 1.47(b) applicant has the requisite proprietary interest in the above-captioned application. However, a statement under 37 CFR 3.73(b) by the assignee must also be submitted. *See* MPEP § 409.03(f). As such, item (5) is not yet satisfied.

All of the requirements of 37 CFR 1.47(b) are not yet complete.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time are available.

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.

James Thomson

James Thomson
Attorney Advisor
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02 SEP 2005

#6

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In re Application of :
VAN DYK, Andre :
U.S. Application No.: 10/500,705 :
PCT No.: PCT/ZA02/00211 : **DECISION**
Int. Filing Date: 17 December 2002 :
Priority Date: 03 January 2002 :
Attorney's Docket No.: 2004_1032A :
For: EXPLOSIVE PRESSURE WAVE :
CONCENTRATOR :

The decision is in response to the "Renewed Petition Under 37 CFR 1.47(b)" ("Pet.") submitted on 10 June 2005.

BACKGROUND

On 24 March 2005, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of items (2) and (5) of 37 CFR 1.47(b).

On 10 June 2005, petitioner submitted the instant renewed petition which was accompanied by, *inter alia*, a declaration of Roy Francis Taberer ("'Decl."); a copy of a letter dated 03 May 2005; a copy of the registered mail envelope; a delivery history; and a statement under 37 CFR 3.73(b).

DISCUSSION

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (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 nonsigning inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Applicant satisfied items (1), (3), (4) and (6) in the initial petition.

Concerning item (2), the 24 March 2005 decision requested that the 37 CFR 1.47(b) applicant demonstrate that the nonsigning inventor received a copy of the

application and has that he failed to respond.

In the renewed petition, the 37 CFR 1.47(b) applicant has provided sufficient evidence to meet the requirements of item (2) of 37 CFR 1.47(b). Petitioners submitted a declaration by Mr. Taberer who claims that he provided a copy of the application and declaration via registered mail on 03 May 2005. Decl. at ¶ 2. Petitioner included documentary evidence that the nonsigning inventor received those documents on 09 May 2005. Mr. Taberer states that he called Mr. Van Dyk on 23 May 2005 and was told that he would not cooperate. Id. at ¶ 3.

Regarding item (5), petitioner has provided a statement under 37 CFR 3.73(b) by the assignee as required. The statement was signed by the General Manager of the assignee, Mr. Toto. A statement that Mr. Toto was authorized to act on behalf of the assignee was included. Item (5) is now complete.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 01 February 2005 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 December 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 February 2005.

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

James Thomson

James Thomson
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02 SEP 2005

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Mr. Andre Van Dyk
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0002 Pretoria
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In re Application of
VAN DYK, Andre
U.S. Application No.: 10/500,705
PCT No.: PCT/ZA02/00211
Int. Filing Date: 17 December 2002
Priority Date: 03 January 2002
Attorney's Docket No.: 2004_1032A
For: EXPLOSIVE PRESSURE WAVE CONCENTRATOR

Mr. Van Dyke:

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.

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of :
GERELL, et al. :
Application No. 10/500,708 : DECISION ON PETITION
Filed: February 8, 2005 : TO WITHDRAW
Attorney Docket No. 67063-76478 : 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 29, 2006.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 26288 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice. The correspondence address of record remains unchanged.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/500,714	07/06/2004	David R. McMurtry	120300

CONFIRMATION NO.
7191

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

Date Mailed: November 30, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

17 FEB 2006

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P.O. Box 1450
Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of:	:	
MCMURTRY, David, R.	:	DECISION ON REFUND
U.S. Application No.: 10/500,714	:	REQUEST
PCT No.: PCT/GB03/00251	:	
International Filing Date: 22 January 2003	:	
Priority Date: 22 January 2002	:	
Atty Docket No.: 120300	:	
For: RE-ORIENTABLE SAMPLE HOLDER	:	

This decision is issued in response to the "Request For Refund To Deposit Account" filed 31 October 2005. No petition fee is required.

BACKGROUND

On 22 January 2003, applicant filed international application PCT/GB03/00251 that claimed a priority date of 22 January 2002 and designated the United States. On 31 July 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., 22 July 2004.

On 06 July 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an executed declaration.

On 29 November 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) were satisfied as of 06 July 2004.

On 24 March 2005, the application was published by the USPTO.

On 31 October 2005, applicant filed a "Petition For Express Abandonment To Avoid Publication Under 37 CFR 1.138(c)" and the "Request For Refund To Deposit Account" considered herein.

On 30 November 2005, the USPTO issued a "Decision Dismissing Petition Under 37 CFR 1.138(c)" noting that applicant's request for express abandonment will not be recognized because the application had already published.

DISCUSSION

In the present application, applicant properly paid the $920 basic national fee applicable at the time for the present application, and $86 in additional claims fees. Applicant now requests a refund of "a portion of the basic fee, reflecting the search and examination fees." The basis for this request is the intended withdrawal of the application, which applicant asserts will eliminate the necessity of a search or examination.

As noted above, applicant's request to withdraw the application has been dismissed by the USPTO, and the search and examination of the application has proceeded (a first Office action was mailed on 25 January 2006). Thus, the underlying rationale for the present refund request has been eliminated.

Moreover, even if the application had been effectively withdrawn, applicant's "change of purpose" in deciding to withdraw the application would not have justified a refund of the properly filed fees. While 37 CFR 1.26(a) permits the USPTO to refund "any fee paid by mistake or in excess of that required," the regulation expressly states that "[a] change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid ... will not entitle a party to a refund of such fee."

CONCLUSION

The "Request For Refund To Deposit Account" is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Refund Request" and must include an adequate showing that a refund of a portion of the basic national fee herein is appropriate under the applicable statutes and regulations.

Please direct further correspondence with respect to this petition 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.

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

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(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

MAR 07 2006

OFFICE OF PETITIONS

Applicant: Tanner
Appl. No.: 10/500,738
International Filing Date: January 22, 2003
Title: METHOD FOR BLEACHING MECHANICALLY DEFIBERED PULP
Attorney Docket No.: 032221-049
Pub. No.: US 2005/0098279 A2
Pub. Date: May 12, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 23, 2005, for the above-identified application.

The request is granted.

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

Inquiries relating to this matter may be directed to Mark O. 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Giovanni Bocola :
Application No. 10/500,754 : ON PETITION
Filed: March 17, 2005 :
Attorney Docket No. 1011-637 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 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 December 28, 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). Two-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 May 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3781 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

25 APR 2008

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MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

In re Application of	:	DECISION ON
Stephen TEMPLE	:	
Application No.: 10/500,781	:	
PCT No.: PCT/GB03/00150	:	
Int. Filing Date: 16 January 2003	:	PETITION UNDER
Priority Date: 16 January 2002	:	
Attorney Docket No.: 27754/24347	:	
For: DROPLET DEPOSITION APPRATUS	:	37 CFR 1.181

This decision is in response to applicant's "PETITION TO WITHDRAW NOTICE OF ABANDONMENT" filed on 07 April 2008, requesting the withdrawal of the Notice of Abandonment because the executed declaration was timely filed as evidenced by the stamped postcard receipt.

BACKGROUND

On 16 January 2003, this international application was filed, claiming an earliest priority date of 16 January 2002.

On 02 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), but no executed declaration was filed on such time.

On 08 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date. The notice indicated that the items above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 20 April 2005, a second Notification of Acceptance (Form PCT/DO/EO/903) was mailed stating that the Date of Receipt of 35 USC 371 (c)(1), (c)(2), and (c)(4) requirements was 04 April 2005 and the Date of Completion of All 35 USC 371 Requirements is 04 April 2005.

On 27 March 2008, the UPSTO mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that the applicant has failed to respond to the "Notification of Missing Requirements(From PCT/DO/EO/905)" mailed 27 March 2008 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 27 March 2008, applicants submitted on 07 April 2008 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 04 April 2008 of the executed declaration, within the time period of response.

DISCUSSION

Applicants' present petition accompanied by a copy of the following document, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Copy of the executed declaration
(2) Copy of stamped postcard by USPTO dated April 04, 2005

The postcard lists the above items and bears a USPTO date of stamp as April 04, 2005.

MPEP 503 provides:

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

Applicants' postcard is accepted as *prima facie* that the executed declaration was timely deposited with the U.S. Patent and Trademark Office on 04 April 2005.

Accordingly, the date of receipt for the executed declaration is 04 April 2005.

In addition, a review of the file reveals that the executed declaration was filed 04 April 2005 and that a proper Notice of Acceptance of Application Under 35 USC 371 and 37 CFR 1.495 was properly mailed on 20 April 2005. As a result, the Notice of Abandonment (Form PCT/DO/EO/909) mailed on 27 March 2008 was erroneous.

CONCLUSION

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

The NOTICE OF ABANDONMENT, mailed 27 March 2008 has been **VACATED**.

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

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

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FRISHAUF, HOLTZ, GOODMAN &
CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of:
Awajiya et al.
Application No. 10/500789
Filing or 371(c) Date: 04/11/2005
Atty. Docket No.: 04433/LH

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed April 1, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

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 481 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Determination of Patent Term Adjustment mailed March 26, 2009 indicated that the above-identified application was entitled to a PTA of 519 days. Applicants do not dispute the adjustment to date of 519 days. Instead, applicants indicate that the adjustment of 519 days may extend the term of the patent by too many days and direct the Office's attention to the December 1, 2008 submission.

A review of the record reveals that the Office errantly neglected to assess a reduction of 38 days in accordance with 37 CFR 1.704(c)(8) in connection with the reply filed December 1, 2008. The reduction commenced October 25, 2008, the day after the date that the initial reply was filed, and ended December 1, 2008, the date that the supplemental reply (Letter) was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **481 days**, (575 days of PTO delay, reduced by 94 days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Updated PAIR Screen

PTA Calculations for Application: 10/500789			
Application Filing Date:	04/11/2005	PTO Delay (PTO):	575
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	56
Post-Issue Petitions:	0	Total PTA (days):	481
PTO Delay Adjustment:	-38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	07/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
59	03/26/2009	MAIL NOTICE OF ALLOWANCE			
58	03/25/2009	ISSUE REVISION COMPLETED			
57	03/25/2009	DOCUMENT VERIFICATION			
56	03/25/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	03/25/2009	CASE DOCKETED TO EXAMINER IN GAU			
54	03/21/2009	NOTICE OF ALLOWABILITY			
46	03/18/2009	DATE FORWARDED TO EXAMINER			
45	03/16/2009	AMENDMENT AFTER FINAL REJECTION			
44	12/01/2008	MISCELLANEOUS INCOMING LETTER			
43	12/24/2008	MAIL FINAL REJECTION (PTOL - 326)			
42	12/22/2008	FINAL REJECTION			
41	10/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	10/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	11/13/2008	DATE FORWARDED TO EXAMINER			
38	10/24/2008	RESPONSE AFTER NON-FINAL ACTION		27	33
37	10/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	10/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	10/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	07/30/2008	FILING RECEIPT - CORRECTED			
33	06/27/2008	MAIL NON-FINAL REJECTION			
32	06/24/2008	NON-FINAL REJECTION			

31	05/06/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	26
27	05/20/2008	DATE FORWARDED TO EXAMINER			
26	05/06/2008	RESPONSE TO ELECTION / RESTRICTION FILED		29	23
25	05/06/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	05/06/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	01/07/2008	MAIL RESTRICTION REQUIREMENT	575		8
22	01/04/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
19	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
18	10/16/2007	FLAGGED FOR 5/25			
17	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	07/11/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	04/11/2005	REFERENCE CAPTURE ON IDS			
9	07/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
8	04/11/2005	371 COMPLETION DATE			
7	04/27/2005	APPLICATION DISPATCHED FROM OIPE			
6	04/27/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	04/25/2005	CORRESPONDENCE ADDRESS CHANGE			
4	04/11/2005	ADDITIONAL APPLICATION FILING FEES			
3	04/11/2005	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.

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Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

In re Application of	:	
Chang	:	
Application No. 10/500,796	:	DECISION ON
PCT No.: PCT/US02/10764	:	
Int. Filing Date: 04 April 2002	:	PETITION UNDER
Priority Date: 04 April 2001	:	
Atty. Docket No.: 6395-64909-02	:	37 CFR 1.137(b)
For: Nucleic Acid Vaccines For Prevention Of Flavivirus Infection	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 06 July 2004.

BACKGROUND

This international application was filed on 04 April 2002, claimed an earliest priority date of 04 April 2001, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 02 October 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.

DECISION

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

Counsel's Deposit Account No. 02-4550 is being charged in the amount of $130.00 for the surcharge under 37 CFR 1.492(e), as authorized by the Transmittal Letter.

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 **06 July 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/20/2010

Applicant	: Gwong-Jen J Chang	: DECISION ON REQUEST FOR
Patent Number	: 7662394	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/500,796	: OF WYETH
Filed	: 07/06/2004	:
		:

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.

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MICHAEL TOBIAS
1629 K ST NW
SUITE 300
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Masayuki Ojima	: DECISION ON REQUEST FOR
Patent Number	: 7628308	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/500,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **926** 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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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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In re Application of :
Christophe Bonny :
Application No. 10/500,804 : DECISION ON PETITION
Filed: January 7, 2005 :
Attorney Docket No. 067802-5012-01 :

This is a decision on the "PETITION UNDER 37 C.F.R. 1.78(a)(3) and 1.78(a)(6), filed May 16, 2008, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 119(e) for the benefit of priority to application PCT/1B03/00332 and provisional application no. 60/347,062.

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)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in 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)(2)(ii) and 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 petition does not satisfy requirement (1) above.

The reference to add the above-noted, 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 included an incorporation by reference statement of the prior application (See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 272 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

In view of the above, the amendment is not acceptable. Accordingly, a substitute amendment along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be submitted.

Receipt of the $1,410 petition fee is acknowledged.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Anthony Knight
Supervisor
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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Christophe Bonny :
Application No. 10/500,804 : DECISION ON PETITION
Filed: January 7, 2005 :
Attorney Docket No. 067802-5012-01 :

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. 1.78(a)(3) and 1.78(a)(6), filed December 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 119(e) for the benefit of priority to application PCT/1B03/00332 and provisional application no. 60/347,062.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in 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)(2)(ii) and 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 filed a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) on May 16, 2008. However, in a decision mailed on December 8, 2008, it was pointed out that the amendment submitted with the petition was not acceptable as drafted, since it improperly incorporated 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 included an incorporation by reference statement of the prior application (See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 272 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

On renewed petition, applicant has submitted an amendment, removing the incorporation by reference statement.

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 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 the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at 571-272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1649 for examination.

Anthony Knight
Supervisor
Office of Petitions

Enc: 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
10/500,804	01/07/2005	1649	911	067802-5012-01	30	4

CONFIRMATION NO. 5087

CORRECTED FILING RECEIPT

9629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Date Mailed: 12/30/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Christophe Bonny, Morges, SWITZERLAND;

Power of Attorney: The patent practitioners associated with Customer Number 09629

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/IB03/00332 01/09/2003
which claims benefit of 60/347,062 01/09/2002

Foreign Applications

If Required, Foreign Filing License Granted: 12/29/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/500,804**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Cell-permeable peptide inhibitors of the jnk signal transduction pathway

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

COPY MAILED

JUN 04 2008

OFFICE OF PETITIONS

In re Application of :
Shiozaki, et al. :
Application No. 10/500,819 : ON PETITION
Filed: July 7, 2004 :
Attorney Docket No. Y31-170800C/KK :
For: ACTIVE SUBSTANCE OF POSITIVE ELECTRODE AND NONAQUEOUS ELECTROLYTE BATTERY CONTAINING THE SAME

This is a decision on the petition under 37 CFR 1.181, filed February 28, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

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

The Office contended that the above-identified application became abandoned for failure to submit a reply to the April 25, 2007 final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on July 26, 2007. A Notice of Abandonment was mailed on January 15, 2008.

Petitioners allege that the April 25, 2007 final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket records where the requirement would have been entered had the April 25, 2007 final Office action been received. In addition, practitioner referenced the records in the petition and stated that a review of the application's file for the April 25, 2007 final Office action was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center AU 1745 for the re-mailing of the April 25, 2007 final Office action with a new period set for reply.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Application of: Ehud ARBIT, et al.

Serial No.: 10/500,822

Int'l Filing Date: January 7, 2003

For: **ORAL INSULIN THERAPY**

OIPE
MAR 1 4 2005
PATENT & TRADEMARK

MAILSTOP: MISSING PARTS
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

March 10, 2005

RESPONSE TO DECISION ON PETITION

S I R:

In response to the Decision on Petition from the United States Patent and Trademark Office dated December 20, 2004, a copy of which is enclosed, Applicants herewith submit a new Declaration/Power of Attorney executed by the inventors (8 pages) that satisfies the provisions of 37 C.F.R. § 1.497(a)-(b), a Petition for One-Month Extension of Time and a check in the amount of $250.00, which includes $130.00 to cover the missing parts surcharge and $120.00 for one-month extension fee.

If it is determined that any additional fee is due, the Commissioner is authorized to charge same (or to credit any over payment) to our Deposit Account No. 50-0552.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By _____
Morey B. Wildes, Reg. No. 36,968
Attorney for Applicant

03/15/2005 HGUTEMA1 00000086 10500822
01 FC:1051 130.00 OP

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue - 14th Floor
New York, NY 10018
(212) 736-1940

DECLARATION AND POWER OF ATTORNEY

BEST AVAILABLE COPY

Docket No.:817.1009US

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled:

ORAL INSULIN THERAPY,

the specification of which (check one)

☐ is attached hereto

☒ was filed on January 7, 2003 as International Application Serial No. PCT/US03/00337 and was amended on _____.

☐ I hereby authorize and request our attorneys, Davidson, Davidson & Kappel, LLC of 485 Seventh Avenue, New York, New York 10018 to insert here in parentheses (application number _____, filed _____) the filing date and application number of said application when known.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information that is known to me to be material to the patentability of this application as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim priority benefits under Title 35, United States Code, §119 of any foreign and/or provisional application(s) for patent or inventor's certificate listed below and have also identified below any foreign and/or provisional application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

60/346,746 Number	US Country	7 January 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/347,312 Number	US Country	9 January 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/368,617 Number	US Country	29 March 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/374,979 Number	US Country	23 April 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/389,364 Number	US Country	17 June 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
 Number	US Country	 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

10/237,138 Application Serial Number	6 September 2002 Day/Month/Year Filed	abandoned Status
 Application Serial Number	 Day/Month/Year Filed	 Status

And I hereby appoint Clifford M. Davidson, Reg. No. 32,728, Leslye B. Davidson, Reg. No. 38,854, Cary S. Kappel, Reg. No. 36,561, William C. Gehris, Reg. No. 38,156, Morey B. Wildes, Reg. No. 36,968, Robert J. Paradiso, Reg. No. 41,240, Erik R. Swanson, Reg. No. 40,833, Thomas P. Canty, Reg. No. 44,586, and all other registered attorneys and agents at Davidson, Davidson & Kappel, LLC, U.S. Patent and Trademark Office Customer Number 23280, my attorneys, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith; correspondence address: DAVIDSON, DAVIDSON & KAPPEL, LLC, 485 Seventh Avenue, 14th Floor, New York, New York 10018; Telephone: (212) 736-1940; Fax: (212) 736-2427.

BEST AVAILABLE COPY

DECLARATION AND POWER OF ATTORNEY

Docket No.:817.1009US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first Inventor	Ehud ARBIT
Inventor's signature	E. Arbit
Date	2/16, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional Inventor	Richat ABBAS
Inventor's signature	
Date	, 2005
Residence	~~Mohegan Lake, NY~~ Audubon, PA
Post Office Address	~~3705 Marcy Street~~ 1500 Pintail Drive ~~Mohegan Lake, NY 10547~~ Audubon, PA 19403
Citizenship	US

Full name of additional Inventor	Michael GOLDBERG
Inventor's signature	
Date	2/16, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional Inventor	T. Cooper WOODS
Inventor's signature	
Date	, 2005
Residence	New York, NY
Post Office Address	24 First Avenue, 2nd Floor New York, NY 10009
Citizenship	US

Full name of additional Inventor	Steven DINH
Inventor's signature	Steven Dinh
Date	2/16, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional Inventor	Vivien WONG
Inventor's signature	
Date	, 2005
Residence	Scarsdale, ~~Tarrytown~~, NY
Post Office Address	423 Fort Hill Rd. ~~765 Old Saw Mill River Road~~ ~~Tarrytown, NY 10591~~ Scarsdale, NY 10583
Citizenship	US

Full name of additional Inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

Full name of additional Inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

DECLARATION AND POWER OF ATTORNEY

AVAILABLE COPY

MAR 1 4 2005
PATENT & TRADEMARK OFFICE

Docket No.:817.1009US

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled:

ORAL INSULIN THERAPY

the specification of which (check one)

☐ is attached hereto

☒ was filed on January 7, 2003 as International Application Serial No. PCT/US03/00337 and was amended on _____.

☐ I hereby authorize and request our attorneys, Davidson, Davidson & Kappel, LLC of 485 Seventh Avenue, New York, New York 10018 to insert here in parentheses (application number _____, filed _____) the filing date and application number of said application when known.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information that is known to me to be material to the patentability of this application as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim priority benefits under Title 35, United States Code, §119 of any foreign and/or provisional application(s) for patent or inventor's certificate listed below and have also identified below any foreign and/or provisional application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

60/346,746 Number	US Country	7 January 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
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60/374,979 Number	US Country	23 April 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/389,364 Number	US Country	17 June 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
Number	US Country	Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

10/237,138 Application Serial Number	6 September 2002 Day/Month/Year Filed	abandoned Status
Application Serial Number	Day/Month/Year Filed	Status

And I hereby appoint Clifford M. Davidson, Reg. No. 32,728, Leslye B. Davidson, Reg. No. 38,854, Cary S. Kappel, Reg. No. 36,561, William C. Gehris, Reg. No. 38,156, Morey B. Wildes, Reg. No. 36,968, Robert J. Paradiso, Reg. No. 41,240, Erik R. Swanson, Reg. No. 40,833, Thomas P. Canty, Reg. No. 44,586, and all other registered attorneys and agents at Davidson, Davidson & Kappel, LLC, U.S. Patent and Trademark Office Customer Number 23280, my attorneys, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith; correspondence address: DAVIDSON, DAVIDSON & KAPPEL, LLC, 485 Seventh Avenue, 14th Floor, New York, New York 10018; Telephone: (212) 736-1940; Fax: (212) 736-2427.

DECLARATION AND POWER OF ATTORNEY

Docket No.:817.1009US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor	Ehud ARBIT
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	Richat ABBAS
Inventor's signature	
Date	Feb. 25, 2005
Residence	Audubon, PA 19403
Post Office Address	1500 Pintail Drive Audubon, PA 19403
Citizenship	US

Full name of additional inventor	Michael GOLDBERG
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	T. Cooper WOODS
Inventor's signature	
Date	, 2005
Residence	New York, NY
Post Office Address	24 First Avenue, 2nd Floor New York, NY 10009
Citizenship	US

Full name of additional inventor	Steven DINH
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	Vivien WONG
Inventor's signature	
Date	, 2005
Residence	Scarsdale, NY
Post Office Address	423 Fort Hill Road Scarsdale, NY 10583
Citizenship	US

Full name of additional inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

Full name of additional inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

DECLARATION AND POWER OF ATTORNEY

OIPE SC181 MAR 1 4 2005 PATENT & TRADEMARK OFFICE

Docket No.:817.1009US

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled:

ORAL INSULIN THERAPY

the specification of which (check one)

☐ is attached hereto

☒ was filed on January 7, 2003 as International Application Serial No. PCT/US03/00337 and was amended on _____.

☐ I hereby authorize and request our attorneys, Davidson, Davidson & Kappel, LLC of 485 Seventh Avenue, New York, New York 10018 to insert here in parentheses (application number _____ filed _____) the filing date and application number of said application when known.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information that is known to me to be material to the patentability of this application as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim priority benefits under Title 35, United States Code, §119 of any foreign and/or provisional application(s) for patent or inventor's certificate listed below and have also identified below any foreign and/or provisional application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

60/346,748 Number	US Country	7 January 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/347,312 Number	US Country	9 January 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/368,617 Number	US Country	29 March 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/374,979 Number	US Country	23 April 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/389,364 Number	US Country	17 June 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
Number	US Country	Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

10/237,138 Application Serial Number	6 September 2002 Day/Month/Year Filed	abandoned Status
Application Serial Number	Day/Month/Year Filed	Status

And I hereby appoint Clifford M. Davidson, Reg. No. 32,728, Leslye B. Davidson, Reg. No. 38,854, Cary S. Kappel, Reg. No. 36,561, William C. Gehris, Reg. No. 38,156, Morey B. Wildes, Reg. No. 36,968, Robert J. Paradiso, Reg. No. 41,240, Erik R. Swanson, Reg. No. 40,833, Thomas P. Canty, Reg. No. 44,586, and all other registered attorneys and agents at Davidson, Davidson & Kappel, LLC, U.S. Patent and Trademark Office Customer Number 23280, my attorneys, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith; correspondence address: DAVIDSON, DAVIDSON & KAPPEL, LLC, 485 Seventh Avenue, 14th Floor, New York, New York 10018; Telephone: (212) 736-1940; Fax: (212) 736-2427.

DECLARATION AND POWER OF ATTORNEY

Docket No.:817.1009US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor	Ehud ARBIT
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	Richat ABBAS
Inventor's signature	
Date	, 2005
Residence	Audubon, PA 19403
Post Office Address	1500 Pintail Drive Audubon, PA 19403
Citizenship	US

Full name of additional inventor	Michael GOLDBERG
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	T. Cooper WOODS
Inventor's signature	T. Cooper Woods
Date	2/22 , 2005
Residence	New York, NY
Post Office Address	24 First Avenue, 2nd Floor New York, NY 10009
Citizenship	US

Full name of additional inventor	Steven DINH
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	Vivien WONG
Inventor's signature	
Date	, 2005
Residence	Scarsdale, NY
Post Office Address	423 Fort Hill Road Scarsdale, NY 10583
Citizenship	US

Full name of additional inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

Full name of additional inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

OIPE JC181 MAR 1 4 2005 PATENT & TRADEMARK OFFICE

DECLARATION AND POWER OF ATTORNEY

Docket No.:817.1009US

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled:

ORAL INSULIN THERAPY

the specification of which (check one)

☐ is attached hereto

☒ was filed on January 7, 2003 as International Application Serial No. PCT/US03/00337 and was amended on _____.

☐ I hereby authorize and request our attorneys, Davidson, Davidson & Kappel, LLC of 485 Seventh Avenue, New York, New York 10018 to insert here in parentheses (application number _____, filed _____) the filing date and application number of said application when known.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information that is known to me to be material to the patentability of this application as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim priority benefits under Title 35, United States Code, §119 of any foreign and/or provisional application(s) for patent or inventor's certificate listed below and have also identified below any foreign and/or provisional application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

60/346,746 Number	US Country	7 January 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/347,312 Number	US Country	9 January 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/368,617 Number	US Country	29 March 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/374,979 Number	US Country	23 April 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
60/389,364 Number	US Country	17 June 2002 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No
 Number	US Country	 Day/Month/Year Filed	Priority claimed ☒ Yes ☐ No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT International filing date of this application:

10/237,138 Application Serial Number	6 September 2002 Day/Month/Year Filed	abandoned Status
 Application Serial Number	 Day/Month/Year Filed	 Status

And I hereby appoint Clifford M. Davidson, Reg. No. 32,728, Leslye B. Davidson, Reg. No. 38,854, Cary S. Kappel, Reg. No. 36,561, William C. Gehris, Reg. No. 38,156, Morey B. Wildes, Reg. No. 36,968, Robert J. Paradiso, Reg. No. 41,240, Erik R. Swanson, Reg. No. 40,833, Thomas P. Canty, Reg. No. 44,586, and all other registered attorneys and agents at Davidson, Davidson & Kappel, LLC, U.S. Patent and Trademark Office Customer Number 23280, my attorneys, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith; correspondence address: DAVIDSON, DAVIDSON & KAPPEL, LLC, 485 Seventh Avenue, 14th Floor, New York, New York 10018; Telephone: (212) 736-1940; Fax: (212) 736-2427.

DECLARATION AND POWER OF ATTORNEY

Docket No.:817.1009US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor	Ehud ARBIT
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	Richat ABBAS
Inventor's signature	
Date	, 2005
Residence	Audubon, PA 19403
Post Office Address	1500 Pintail Drive Audubon, PA 19403
Citizenship	US

Full name of additional inventor	Michael GOLDBERG
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	T. Cooper WOODS
Inventor's signature	
Date	, 2005
Residence	New York, NY
Post Office Address	24 First Avenue, 2nd Floor New York, NY 10009
Citizenship	US

Full name of additional inventor	Steven DINH
Inventor's signature	
Date	, 2005
Residence	Tarrytown, NY
Post Office Address	765 Old Saw Mill River Road Tarrytown, NY 10591
Citizenship	US

Full name of additional inventor	Vivien WONG
Inventor's signature	
Date	Feb 17 , 2005
Residence	Scarsdale, NY
Post Office Address	423 Fort Hill Road Scarsdale, NY 10583
Citizenship	US

Full name of additional inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

Full name of additional inventor	
Inventor's signature	
Date	
Residence	
Post Office Address	
Citizenship	

20 DEC 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018

In re Application of	:
ARBIT et al.	:
Application No. 10/500,822	:
PCT No.: PCT/US03/00337	: DECISION ON PETITION
Int. Filing Date: 07 January 2003	:
Priority Date: 07 January 2002	: UNDER 37 CFR 1.181
Attorney Docket No.: 817.110US	:
For: ORAL INSULIN THERAPY	:

This decision is in response to applicants' "Response to Notification of Missing Requirements and Request to Correct Inventor's Name" filed 18 October 2004, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 07 January 2003, applicants filed the above identified international application which claimed priority date of 07 January 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 July 2004.

On 07 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international; and a copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase.

On 08 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requesting clarification of the fourth inventor's name.

On 18 October 2004, applicants filed "Response to Notification of Missing Requirements and Request to Correct Inventor's Name."

DISCUSSION

A. Sequence Listing

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 08 September 2004 indicated that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements set forth in 37 CFR 1.821-1.825. Applicants state, "the referenced application does not include a nucleotide and/or amino acid sequence disclosure." Applicants' assertion is correct that there is no need to file a sequence listing for the present application. As such, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 08 September 2004 is vacated in part.

B. Defective Declaration

A review of the application reveals that the declaration (Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America) is not in compliance with 37 CFR 1.497(a)-(b). The declaration is not directed to an international application. Additionally, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes a duplicate signature block for the third, fourth, fifth and sixth inventor. It is unclear if these inventors were presented with that page, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is also improper. (See Administration Instruction under the Patent Cooperation Treaty Section 214(b) and MPEP 201.03.)

C. Name Change

Applicants state in the present response that the correct name of the fourth inventor's name is T. Cooper Woods as indicated on the declaration rather than Cooper T. Woods as indicated on the published international application. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48 is not required. Accordingly, applicant's explanation of the difference in the spelling of the fourth inventor's name is accepted and noted for the record.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

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

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

27 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018

In re Application of	:
ARBIT et al.	:
Application No. 10/500,822	:
PCT No.: PCT/US03/00337	: DECISION ON PETITION
Int. Filing Date: 07 January 2003	:
Priority Date: 07 January 2002	: UNDER 37 CFR 1.181
Attorney Docket No.: 817.1009US	:
For: ORAL INSULIN THERAPY	:

This decision is in response to applicants' "Response to Decision on Petition" filed 14 March 2005, which is being treated as a Renewed Petition under 37 CFR 1.181.

BACKGROUND

On 07 January 2003, applicants filed the above identified international application which claimed priority date of 07 January 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 July 2004.

On 07 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international; and a copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase.

On 08 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requesting clarification of the fourth inventor's name.

On 18 October 2004, applicants filed "Response to Notification of Missing Requirements and Request to Correct Inventor's Name." In a Decision on Petition dated 20 December 2004, applicants petition under 37 CFR 1.181 was dismissed without prejudice.

On 14 March 2005, applicant filed the present "Response to Decision on Petition" which is being treated as a Renewed Petition under 37 CFR 1.181.

DISCUSSION

A. Sequence Listing

As stated in the previous Decision on Petition, the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 08 September 2004 indicated that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements set forth in 37 CFR 1.821-1.825. Applicants state, "the referenced application does not include a nucleotide and/or amino acid sequence disclosure." Applicants' assertion is correct that there is no need to file a sequence listing for the present application. As such, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 08 September 2004 is vacated in part.

B. Declaration

The declaration submitted on 14 March 2005 is in compliance with 37 CFR 1.497(a)-(b).

C. Name Change

Applicants stated in the previous response that the correct name of the fourth inventor's name is T. Cooper Woods as indicated on the declaration rather than Cooper T. Woods as indicated on the published international application. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48 is not required. Accordingly, applicant's explanation of the difference in the spelling of the fourth inventor's name is accepted and noted for the record.

CONCLUSION

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

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 07 January 2003 and a date of **14 March 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Lourens George Bordewijk :
Application No. 10/500,836 : DECISION ON PETITION
Filed: July 7, 2004 :
Attorney Docket No. 2019-1002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 20, 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 May 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; 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 or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Jeremy G. Mereness 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 in whose behalf he acts. If petitioner desires to receive future correspondence

regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2837 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Daniel W. Chan et al. :
Application No. 10/500,838 : DECISION ON PETITION
Filed: February 2, 2005 :
Attorney Docket No. 56792(71699) :

This is a decision on the petition, filed May 28, 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 submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

This application was held abandoned for failure to reply to the final Office action of April 30, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 30, 2009.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Notice of Appeal) was received by the office on October 29, 2008, with a three (3) month extension of time. A review of the application file record confirms that a Notice of Appeal along with the fees for a three (3) month extension of time were filed in a timely manner.

However, this application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 29, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 30, 2008. *See* MPEP 1215.04.

Petitioner should note that the instant application remains abandoned as an appeal brief (and appeal brief fee) has not been filed to date. Therefore, the requested relief of withdrawing the holding of abandonment cannot be granted, although the Notice of Abandonment was mailed prematurely.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810 for a small entity**;
>
> (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 Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810 petition fee.

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

By mail: Mail Stop Petition
Commissioner for Patents

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

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

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

Telephone inquiries related to this decision may be directed to the JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement

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

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

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OCT 22 2009

OFFICE OF PETITIONS

In re Application of :
Daniel W. Chan et al. :
Application No. 10/500,838 : DECISION ON PETITION
Filed: February 2, 2005 :
Attorney Docket No. 56792(71699) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $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 JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 1643 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

15 NOV 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Department
Choate Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

In re Application of	:	
DAUN, Jane et al.	:	
Application No.: 10/500,840	:	DECISION
PCT No.: PCT/US03/00366	:	
Int. Filing Date: 07 January 2003	:	ON REQUEST UNDER
Priority Date: 07 January 2002	:	
Attorney Docket No.: 2003946-0091(IKKI/US)	:	37 CFR 1.497(d)
For: DEAZAPURINES AND USES THEREOF	:	

This decision is in response to "Petition For Correction of Inventorship," filed in the United States Patent and Trademark Office on 18 October 2004.

BACKGROUND

On 07 January 2003, applicant filed international application PCT/US03/00366, which claimed a priority date of 07 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 July 2003. The deadline for entry into the national stage in the United States was midnight on 07 July 2004.

On 07 July 2004, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 September 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration.

On 18 October 2004, applicant filed a request under 37 CFR 1.497(d) and a declaration of the inventors.

DISCUSSION

Applicants file this request to add Mark Spyvee as inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) have been met. Applicants have provided a statement from the person being added as an inventor, that any error in inventorship occurred without deceptive intention on his part. The processing fee set forth in §1.17(i) has been paid.

As to (3), applicants have indicated that the application was assigned, but have not furnished written consent from the assignee.

The declarations do not comply with 37 CFR 1.497(a)-(b). The declarations list "Bruce DeCosta" as an inventor, but he is not listed on the international application and no record of a 92*bis* change adding him as an inventor was located. If he is not an inventor in this application, an explanation of why the other inventors signed a declaration listing him as an inventor is required. If he was an inventor and should have been listed, applicants may submit a request under 37 CFR 1.497(d) to add him as an inventor.

Additionally, the declarations contained two name inconsistencies. First, the declaration lists "Motohiro Soejima" as an inventor, but the application lists "Motohiko Soejima." If this difference resulted from a transliteration or typographical error, a statement under MPEP 201.03 is required. Second, the application lists an inventor "Janet Y. Zhao", but the declaration lists "Yan (Janet) Zhao". An explanation of the disparity is required.

Finally, the declarations contain non-initialed, non-dated alterations in the form of redactions. 37 CFR 1.52(c)(1). The declarations submitted must be as executed by the inventors.

CONCLUSION

For the above reasons, applicants' petition 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. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)".

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

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46

Patent Department
Choate Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

In re Application of	:	
DAUN, Jane et al.	:	
Application No.: 10/500,840	:	DECISION
PCT No.: PCT/US03/00366	:	
Int. Filing Date: 07 January 2003	:	ON REQUEST UNDER
Priority Date: 07 January 2002	:	
Attorney Docket No.: 2003946-0091(IKKI/US)	:	37 CFR 1.497(d)
For: DEAZAPURINES AND USES THEREOF	:	

This decision is in response to "Renewed Request Under 37 CFR §1.497(d)," filed in the United States Patent and Trademark Office on 21 January 2005.

BACKGROUND

On 07 January 2003, applicant filed international application PCT/US03/00366, which claimed a priority date of 07 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 July 2003. The deadline for entry into the national stage in the United States was midnight on 07 July 2004.

On 07 July 2004, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 September 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration.

On 18 October 2004, applicant filed a request under 37 CFR 1.497(d) and a declaration of the inventors.

On 15 November 2004, the Office mailed Decision On Petition Request Under 37 CFR 1.497(d), refusing applicant's request.

On 21 January 2005, applicant submitted the instant renewed request.

DISCUSSION

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set

forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied.

As to (3), applicants have furnished the consent of the assignee.

Applicants have supplied a 92*bis* change for inventor Bruce DeCosta. Applicants have provided statements concerning the inconsistencies in the names of Motohiro Soejima and Yan (Janet) Zhao.

The new declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **21 January 2005**.

Erin M. Pender

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OGILVY RENAULT LLP
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MONTREAL QC H3B 1R1 CA ÇANADA

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Application of
Laurent6 Masaro, et al.
Application No. 10/500,856
Filed: May 24, 2005
Attorney Docket No. 14725-8US

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 2, 2009, 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 referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until September 21, 2009 at 4:21 pm. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be electronically filed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry, electronically filed and followed up with a phone call to the Office or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

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

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OGILVY RENAULT LLP
1, Place Ville Marie
SUITE 2500
MONTREAL, QC H3B 1R1
CANADA

Mail Date: 04/21/2010

Applicant	: Laurent Masaro	: DECISION ON REQUEST FOR
Patent Number	: 7588632	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/500,856	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **333** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

07 JUN 2005
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
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In re Application of	:	
AIHARA et al.	:	
Application No.: 10/500,859	:	DECISION
PCT No.: PCT/JP03/01940	:	
Int. Filing Date: 21 February 2003	:	
Priority Date: 22 February 2002	:	
Attorney's Docket No.: 254787US0PCT	:	
For: ANTIFOULING DETERGENT FOR HARD SURFACES	:	

This decision is in response to applicants' "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 01 November 2004.

BACKGROUND

On 21 February 2003, applicants filed international application PCT/JP03/01940, which designated the United States and claimed a priority date of 22 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 August 2004 (22 August 2004 being a Sunday).

On 19 July 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 14 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by thirty months from the priority date.

On 01 November 2004, applicants filed the instant "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT".

DISCUSSION

Applicants' petition indicates that the full U.S. Basic National Fee was paid and/or authorized to be charged to Deposit Account 15-0030 on 19 July 2004. The USPTO did receive

applicants' submission filed 19 July 2004 and the U.S. Basic National Fee was paid in full on that date. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 14 October 2004 is hereby VACATED and the petition under 37 CFR 1.181 is MOOT.

The declaration of inventors filed 19 July 2004 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** as **MOOT**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 14 October 2004 is VACATED.

Regarding the declaration, applicants are required to file either (1a) a pre-approved foreign language declaration in compliance with 37 CFR 1.497(a)-(b) or (1b) the requisite statement under 37 CFR 1.69(b) that the translation is accurate. Applicants are also required to file (2) a translation of the international application into English and (3) the processing fee under 37 CFR 1.492(f) for providing the translation later than thirty months from the priority date within TWO (2) MONTHS from the date of mailing of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply will result in abandonment of the application.

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

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14 JAN 2005

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

In re Application of	:	
BOUCHY et al.	:	
Serial No.: 10/500,863	:	DECISION ON
PCT App. No.: PCT/FR02/03644	:	
Int'l Filing Date: 24 October 2002	:	PETITION UNDER
Priority Date: 31 October 2001	:	
Attorney Docket No.: 255939US41PCT	:	37 CFR 1.137(b)
For: A BREAKABLE COUPLING SYSTEM	:	
FOR THE FAN SHAFT OF A TURBOJET	:	

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

Applicant's statement that the "entire delay in filing the required reply from due date for the reply until the filing of this petition 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 has been provided. The required petition fee of $1330 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of 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 period is required.

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04 NOV 2004

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GREENBLUM & BERNSTEIN, P.L.C.
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RESTON VA 20191

In re Application of	:	
GOPPEL et al.	:	
Application No.: 10/500,869	:	DECISION ON
PCT No.: PCT/EP02/12238	:	
Int. Filing Date: 02 November 2002	:	PETITION UNDER
Priority Date: 09 November 2001	:	
Attorney Docket No.: P25666	:	37 CFR 1.137(b)
For: COSMETIC AND DERMATOLOGICAL LIGHT PROTECTION FORMULATIONS WITH A CONTENT OF HYDROXYBENZOPHENONES AND ALKYLNAPHTHALATES	:	

This decision is in response to applicants' submission filed 21 July 2004.

BACKGROUND

On 02 November 2002, applicants filed international application PCT/EP02/12238 which designated the U.S. and claimed a priority date of 09 November 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 May 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 May 2004 (09 May 2004 being a Sunday).

On 21 July 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 and a "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNDER 37 CFR 1.137(b) WHEREIN THE ENTIRE DELAY WAS UNINTENTIONAL ".

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 21 July 2004.

As to item (2), applicant submitted the petition fee on 21 July 2004.

As to item (3), petitioner's statement that "the entire delay in entering the national stage was unintentional" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

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

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring: an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b); the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; an English translation of the international application as filed; and the processing fee under 37 CFR 1.492(f) for furnishing the English translation later than thirty months from the priority date.

Daniel Stemmer
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03 MAR 2005
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McKenna Long & Aldridge LLP
1900 K Street, NW
Washington, D.C. 20006

In re Application of :
OP DEN CAMP et al. :
Application No.: 10/500,872 : DECISION ON REQUEST
PCT No.: PCT/NL03/00049 : UNDER 37 CFR 1.497(d)
Int. Filing Date: 23 January 2003 :
Priority Date: 23 January 2002 :
Attorney Docket No.: 28902.0008 :
For: FERMENTATION OF PENTOSE SUGARS

This decision is in response to "Petition to Correct Inventorship under 37 CFR 1.48(a)" filed 06 December 2004, which is being treated as a petition under 37 CFR 1.497(d). The $130 petition fee under 37 CFR 1.17 has been submitted.

BACKGROUND

On 23 January 2003, applicants filed the above-captioned international application, which claimed a priority date of 23 January 2002. The international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj; and Christiaan Van der Drift as applicant/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 July 2004.

On 07 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee; a translation of the international application; and a declaration executed by: Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj; Christiaan Van der Drift and Jacobus Thomas Pronk.

On 04 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration filed 07 July 2004 was defective because the declaration sets forth an inventor who had not been named in the international application. Furthermore, the Notification stated that a sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821-1.825. The notification set a two-month time limit in which to respond.

On 06 December 2004, applicants filed "Petition to Correct Inventorship under 37 CFR 1.48(a).

DISCUSSION

In the instant case, the international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj; and Christiaan Van der Drift as applicant/inventors. Applicants request to add Jacobus Thomas Pronk 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; 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).

Regarding item (1), applicants have not provided a statement from Jacobus Thomas Pronk which states that the error in inventorship occurred without deceptive intent.

Applicants have not satisfied (4). 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), or written confirmation that no assignee exists. Here, the international application indicates Royal Nedalco B.V. as an applicant and it is unclear if the invention has been assigned to Royal Nedalco B.V.

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. A proper response must include a statement from Jacobus Thomas Pronk and a written consent of assignee in compliance with 37 CFR 3.73(b). 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.

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In re Application of :
OP DEN CAMP et al. :
Application No.: 10/500,872 : DECISION ON REQUEST
PCT No.: PCT/NL03/00049 : UNDER 37 CFR 1.497(d)
Int. Filing Date: 23 January 2003 :
Priority Date: 23 January 2002 :
Attorney Docket No.: 28902.0008 :
For: FERMENTATION OF PENTOSE SUGARS

This decision is in response to "Communication: Correction of Inventorship" filed 27 April 2005, which is being treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 23 January 2003, applicants filed the above-captioned international application, which claimed a priority date of 23 January 2002. The international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj Harhangi; and Christiaan Van der Drift as applicant/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 July 2004.

On 07 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee; a translation of the international application; and a declaration executed by: Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj Harhangi; Christiaan Van der Drift; and Jacobus Thomas Pronk.

On 04 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration filed 07 July 2004 was defective because the declaration sets forth an inventor who had not been named in the international application. Furthermore, the Notification stated that a sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821-1.825. The notification set a two-month time limit in which to respond.

On 06 December 2004, applicants filed "Petition to Correct Inventorship under 37 CFR 1.48(a). In a decision dated 03 March 2005, applicants' request to correct inventorship was dismissed without prejudice.

On 27 April 2005, applicants filed "Communication: Correction of Inventorship" which is being treated as a renewed request under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj Harhangi; and Christiaan Van der Drift as applicant/inventors. Applicants request to add Jacobus Thomas Pronk 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; 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).

Regarding item (1), applicants have provided a statement from Jacobus Thomas Pronk which states that the error in inventorship occurred without deceptive intent.

In regards to item (4) above, the written consent of the assignee is not acceptable, in that, the "Consent of Assignee Royal Nedalco B.V. under 37 CFR 3.73(b) for Correction of Inventorship" does not identify the name of the individual signing on behalf of the assignee, Royal Nedalco B.V. Further, the "Consent of Assignee Royal Nedalco B.V. under 37 CFR 3.73(b) for Correction of Inventorship" indicates that an assignment is attached, however, a review of the petition papers reveals that the assignment is not located therein. Therefore, applicants must provide newly executed consent of assignee, which identifies the person consenting to the additional inventor, and a copy of the assignment or indicate that the assignment has been recorded in the United States Patent and Trademark Office (e.g., reel and frame number).

CONCLUSION

Applicants' renewed 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. A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b). 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.

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In re Application of :
OP DEN CAMP et al. :
Application No.: 10/500,872 : DECISION ON REQUEST
PCT No.: PCT/NL03/00049 : UNDER 37 CFR 1.497(d)
Int. Filing Date: 23 January 2003 :
Priority Date: 23 January 2002 :
Attorney Docket No.: 28902.0008 :
For: FERMENTATION OF PENTOSE SUGARS

This decision is in response to "Communication: Correction of Inventorship" filed 13 July 2005, which is being treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 23 January 2003, applicants filed the above-captioned international application, which claimed a priority date of 23 January 2002. The international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj; and Christiaan Van der Drift as applicant/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 July 2004.

On 07 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee; a translation of the international application; and a declaration executed by: Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj; Christiaan Van der Drift and Jacobus Thomas Pronk.

On 04 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration filed 07 July 2004 was defective because the declaration sets forth an inventor who had not been named in the international application. Furthermore, the Notification stated that a sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821-1.825. The notification set a two-month time limit in which to respond.

On 06 December 2004, applicants filed "Petition to Correct Inventorship under 37 CFR 1.48(a). In a decision dated 03 March 2005, applicants' request to correct inventorship was dismissed without prejudice.

On 27 April 2005, applicants filed "Communication: Correction of Inventorship." In a decision on request under 37 CFR 1.497(d) dated 03 June 2005, applicants' request was dismissed without prejudice.

On 13 July 2005, applicants filed "Communication: Correction of Inventorship" which is being treated as a Renewed Request under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Hubertus Johannes Marie Op Den Camp; Harry Ramanoedj; and Christiaan Van der Drift as applicant/inventors. Applicants request to add Jacobus Thomas Pronk 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.

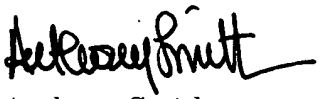
A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s)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

Applicants have satisfied items (1) through (4).

CONCLUSION

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

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



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OFFICE OF PETITIONS

In re Application of :
Serge Haumont :
Application No. 10/500,874 : DECISION ON PETITION
Filed: July 7, 2004 : UNDER 37 C.F.R. § 1.181
Attorney Docket No.: :
60091.00329 :
Title: SELECTING GGSN IN SHARED :
MOBILE NETWORK :

This is a decision on the petition filed on October 2, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 12, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 13, 2007. A notice of abandonment was mailed on September 27, 2007.

RELEVANT PORTION OF THE M.P.E.P..

Section 503 of the M.P.E.P., entitled "Application Number and Filing Receipt," sets forth, *in pertinent part*:

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will

not serve as prima facie evidence of receipt of that item in the USPTO.

ANALYSIS

With the present petition, Petitioner has asserted that a response was submitted to the Office on September 12, 2007. Petitioner has submitted a copy of this submission, along with a postcard receipt that establishes that both a "Response/Amendment (19 Pages)" and "Req. for Ext. of Time (3 months)" were received in the Office on September 12, 2007.

Moreover, Petitioner has further included a copy of this submission, and it is noted that this same response has been located in the electronic file; therefore, it is clear that this response was received on September 12, 2007. Furthermore, Office records confirm that the fee that is associated with the filing of a request for a three-month extension of time was received in the Office on September 12, 2007.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

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 notify the Examiner of this decision, so that the response to the non-final Office action that was received on September 12, 2007 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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OFFICE OF PETITIONS

In re Application of :
Yoshito KURODA et al. :
Application No. 10/500,882 : ON PETITION
Filed: July 7, 2004 :
Attorney Docket No. 0216-0510PUS1 :

This is in response to the petition under 37 CFR 1.59(b), filed September 8, 2006, to expunge information submitted under MPEP 724.05(III), which is being treated as a petition under 37 CFR 1.181 requesting removal of a third party submission under 37 CFR 1.99 or protest under 37 CFR 1.291.

The petition is **GRANTED.**

Petitioner requests that a PTO/SB/08 filed with an incorrect heading by a third party on April 17, 2006 and considered by the examiner in the Notice of Allowability mailed June 19, 2006 be expunged. The form PTO/SB/08 filed April 27, 2006 contains the application number of the instant application; however, none of the other identifying data on the form, i.e., filing date, first named inventor, art unit, examiner name, and attorney docket number, correspond to the instant application. A Supplemental Notice of Allowability was mailed by the Office October 19, 2006 and indicated that the form PTO/SB/08 filed April 27, 2006 was not a paper for the instant application.

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 submission was not filed within two months of the date of publication of the application, it is 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 publication and is thus time barred.

In view of the above, the PTO/SB/08 filed April 17, 2006 and the initialed and dated copy of such attached to the Notice of Allowability mailed June 19, 2006 will be removed from the official file.

As the instant petition is being treated as a petition under 37 CFR 1.181, no petition fee is required. Accordingly, the petition fee of $200 will be credited to petitioners Deposit Account No. 02-2448.

Telephone inquiries regarding this decision should be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

06 JUN 2006

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In re Application of
McGrath et al.
Application No.: 10/500,902
PCT No.: PCT/AU03/00019
Int. Filing Date: 09 January 2003
Priority Date: 09 January 2002
Attorney Docket No.: LAKE 038
For: INTERACTIVE SPATIALIZED AUDIOVISUAL SYSTEM

DECISION

This decision is issued in response to applicants' "Petition to Withdraw Abandonment" which is being treated as a petition under 37 CFR 1.181 filed 19 May 2006.

BACKGROUND

On 09 January 2003, applicants filed international application PCT/AU03/00019 which claimed a priority date of 09 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 July 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, 09 July 2004.

On 06 July 2004, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 19 January 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(h).

On 12 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 19 January 2005 within the time period set therein.

On 19 May 2006, applicants filed Petition to Withdraw Abandonment under 37 CFR 1.181 which included an executed declaration. Petitioner alleges that the executed declaration was submitted by facsimile on 18 February 2005.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 18 February 2005 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office, after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

The evidence filed with the present petition is convincing that the 18 February 2005 response included a declaration with a certificate of facsimile transmission. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items facsimiled on 18 February 2005, (2) supplied copies of the previously transmitted correspondence; and (3) provided a copy of the sending unit 's report confirming transmission on 18 February 2005 with a statement which attests on a personal knowledge of the previous timely transmission. The declaration submitted on 19 May 2006 will be considered as a timely response to the Notification of Missing Requirements mailed 19 January 2005; however, the declaration will be given a receipt date of 19 May 2006. (See 37 CFR 1.8(a))

CONCLUSION

Therefore, applicants' petition under 37 CFR 1.181 is **GRANTED** and the holding of abandonment has been withdrawn.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be

given an international application filing date of 09 January 2003 and a date of 19 May 2006 under 35 U.S.C. 371.

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

Anthony Smith
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16 DEC 2004

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In re Application of PALUMBO et al.	
Application No.: 10/500,908	
PCT Application No.: PCT/EP02/14338	DECISION ON PETITION
Int. Filing Date: 16 December 2002	UNDER 37 CFR 1.137(b)
Priority Date Claimed: 19 December 2001	
Attorney Docket No.: D-43458-01	
For: PACKAGE HAVING AN INFLATED FRAME	

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 07 July 2004 is GRANTED.

BACKGROUND

On 16 December 2002, applicants filed international application PCT/EP02/14338. The international application claims a priority date of 19 December 2001 and designates the United States. A copy of the international application was communicated by the International Bureau to the United States Patent & Trademark Office on 26 June 2003. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 19 June 2004. The application became abandoned at midnight 19 June 2004 for failure to pay the basic national fee.

On 07 July 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), 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 or other required action, from the due date for the reply or other action, 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.

The declaration filed under PCT Rule 4.17 fails to comply with 37 CFR 1.497. The international application was filed on 16 December 2002. The declaration was executed on 15 May 2003. The declaration fails to identify the specification to which it is directed. Accordingly, the provision of 35 USC 371(c)(4) has not been met.

CONCLUSION

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

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905), requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497 and the surcharge set forth in 37 CFR 1.492(e) are due.

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Nathan Newhouse
Detailee
PCT Legal Administration
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OFFICE OF PETITIONS

In re Application of :
Noda et al. :
Application Number: 10/500911 : DECISION ON PETITION
Filing Date: 07/08/2004 :
Attorney Docket Number: :
10577.0002-00000 :

This is a decision on the petition filed on 24 July, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 13 January, 2007, for failure to file a timely response to the Office action requiring restriction and/or election mailed on 12 December, 2006, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 25 July, 2007.

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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)).

Petitioners have filed an election in response to the restriction requirement.

The application is forwarded to Technology Center Art Unit 1636 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

15 SEP 2005

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In re Application of VAARALA et al :
Application No.: 10/500,930 :
PCT Application No.: PCT/FI03/00045 :
Int. Filing Date: 21 January 2003 : DECISION ON PETITION
Priority Date Claimed: 22 January 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 290.1078USN :
For: METHOD AND SYSTEM FOR SENDING A :
MESSAGE THROUGH A SECURE CONNECTION :

This is a decision on applicants' Petition For Revival Under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 13 June 2005.

BACKGROUND

On 21 January 2003, applicants filed international application PCT/FI03/00045. The international application claims a priority date of 22 January 2002 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 31 July 2003. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 22 July 2004.

On 8 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia,* the U.S. Basic National Fee as required by 35 U.S.C. 371(c)(1), a copy of the international application, and an unexecuted declaration of the inventors.

On 13 December 2004, a Notification of Missing Requirements Under 35 U.S.C. 371 (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). This Notification set a two (2) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a).

On 13 June 2005, applicants filed the instant petition for revival accompanied by, *inter alia,* the petition fee of $750, an executed declaration as required by 35 U.S.C. 371(c)(4), and the surcharge of $65 for the late declaration.

DISCUSSION

Applicants' response filed 13 June 2005 was within the time limits set by the Notification of Missing Requirements, which provided for a two (2) month period for reply, with extensions of time available. Applicants' response was filed in the fourth month, so a four month extension fee of $795 is required. This fee has been charged to Deposit Account No. 06-0243 as authorized. Applicants' response included an executed declaration as required by 35 U.S.C. 371(c)(4) and the surcharge of $65 for the late declaration. As such, applicants' reply is timely and the application is not abandoned. Therefore, the petition to revive is moot and the $750 fee has been credited back to counsel's Deposit Account.

The declaration filed 13 June 2005 is defective because it does not include the entire declaration signed by each inventor. See MPEP 201.03, which states:

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

Thus, applicants' declaration is defective because it is a combined declaration consisting of two individually executed declarations. The declarations must include all of the pages of the declaration signed by each of the inventors.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is DISMISSED as MOOT.

Applicant is now required to submit a substitute declaration or oath to correct the deficiencies set forth above. Applicant is given **ONE (1) MONTH** from the mailing date of this notice, within which to supply the substitute declaration or oath in order to avoid abandonment. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136.

Amy Vanatta
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Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

22 MAR 2006

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In re Application of	:	
VAARALA et al.	:	
Application No.: 10/500,930	:	
PCT No.: PCT/FI03/00045	:	
Int. Filing Date: 21 January 2003	:	
Priority Date: 22 January 2002	:	DECISION
Attorney Docket No.: 290.1078USN	:	
For: METHOD AND SYSTEM FOR SENDING A MESSAGE THROUGH A SECURE CONNECTION	:	

This is a decision on applicants' submission of a declaration in the United States Patent and Trademark Office (USPTO) on 19 October 2005.

BACKGROUND

On 15 September 2005, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicant's petition as moot and requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b). The decision set a one month, non-extendable time period for reply.

On 19 October 2005, applicants submitted a new declaration, executed by the inventors.

DISCUSSION

The new declaration complies with 37 CFR 1.497(a)-(b) .

CONCLUSION

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 19 October 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

05 DEC 2007

25181
Foley Hoag LLP
155 Seaport Blvd.
Boston, MA 02210-2600

In re Application of :
LI et al. :
Application No.: 10/500,932 : DECISION ON PETITION
PCT No.: PCT/US03/00377 :
Int. Filing Date: 08 January 2003 :
Priority Date: 09 January 2002 :
Attorney Docket No.: TRA-029.01 :
For: EFFICIENT LIPOSOMAL ENCAPSULATION

This decision is issued in response to applicants' "Petition for Withdrawal of Holding of Abandonment" filed 02 November 2006, which is being treated as petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 08 January 2003, applicants filed international application PCT/US03/00377 which claimed a priority date of 09 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 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 09 July 2004.

On 08 July 2004, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application, and an application data sheet.

On 16 February 2005, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 12 July 2006, 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 file a complete response to the Notification of Missing Requirements mailed 16 February 2005 within the time period set therein.

On 02 November 2006, applicants filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 19 September 2005; a post card receipt dated 19 September 2005; and a transmittal letter dated 19 September 2005.

DISCUSSION

A. Petition for Withdrawal of Holding of Abandonment

Applicants state in their present petition that a declaration was received at the United States Patent and Trademark Office on 19 September 2005. A review of the present application reveals that the declaration filed 19 September 2005 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, and application number. The receipt itemizes a declaration executed by the inventors. The receipt is stamped "Rec'd. OIPE SEP19, 2005" across its face is sufficient to indicate that the declaration was in fact received in the Office on 19 September 2005.

B. Defective Declaration

The declaration executed by Tong Shangguan is defective and is insufficient to satisfy the oath or declaration requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration submitted includes an alteration that has not been initialed and dated by the inventor. (See MPEP §605.04(a) and 37 CFR 1.52(c)) Further, it appears that the declaration has been altered to correct the inventor's name. If this is the case, an explanation pursuant to Manual of Patent Examining Procedure §201.03 or §605.04(a) is required.

CONCLUSION

Applicant's petition for withdrawal of holding of abandonment under 37 CFR 1.181 is **GRANTED**.

A proper response must be filed within **ONE MONTH** from the mail date of this decision and must include a declaration in compliance with 37 CFR 1.497(a)-(b) executed by Tong Shangguan and an explanation pursuant to Manual of Patent Examining Procedure §201.03 or §605.04(a). No extensions of this time limit may be obtained under 37 CFR 1.136(a).

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

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

01/05/2007 SBASHEIR 00000003 10500932

01 FC:2617 65.00 OP
02 FC:2255 1080.00 OP

23 FEB 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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25181
Foley Hoag LLP
155 Seaport Blvd.
Boston, MA 02210-2600

In re Application of :
LI et al. :
Application No.: 10/500,932 : DECISION ON PETITION
PCT No.: PCT/US03/00377 :
Int. Filing Date: 08 January 2003 :
Priority Date: 09 January 2002 :
Attorney Docket No.: TRA-029.01 :
For: EFFICIENT LIPOSOMAL ENCAPSULATION

This decision is in response to applicants' "Response and Request to Decision on Petition" filed 26 January 2007. Applicants are notifying the Office that the name of the second inventor is Tong Shangguan as indicated on the declaration rather than Shangguan Tong as indicated on the published international application.

The Affidavit of Tong Shangguan states that "I am an inventor of some or all of the subject matter claimed in the above identified application and the error occurred without any deceptive intent on my part." As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48 is not required. Accordingly, applicants' explanation of the difference in the name of the second inventor is accepted and noted for the record. For the reasons above, the request is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing and for review of the national stage papers submitted 26 January 2007.

Anthony Smith
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SEP 27 2007

OFFICE OF PETITIONS

GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO CA 94304

In re Application of :
Poulouse, Ayrookaran J. :
Application No. 10/500,936 : ON PETITION
Filed: March 25, 2005 :
Attorney Docket No. GC717-2-US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on August 21, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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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GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO CA 94304

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Poulose, Ayrookaran J.	:	
Application No. 10/500,936	:	DECISION ON PETITION
Filed: March 25, 2005	:	
Attorney Docket No. GC717-2-US	:	

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

The petition is **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), an Amendment and a Terminal Disclaimer (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 $1050.00 extension of time fee submitted with the petition on May 21, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 1656 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

27 JAN 2005

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

Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of	:	
LINZMEIER et al.	:	
Application No.: 10/500,942	:	DECISION ON PETITION
Filing Date: 06 July 2004	:	UNDER 37 CFR 1.181
Attorney Docket No.: SCHO0182	:	
For: SOCIABLE ENCODER AND DECODER FOR SCALED DATA STREAM	:	

This is a decision on applicants' "Petition to Convert" filed on 26 October 2004 in the United States Patent and Trademark Office (USPTO), which requests that the application papers submitted on 06 July 2004 be considered a filing under 35 U.S.C. 111. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 11 December 2002, applicants filed international application PCT/EP02/14079 which claimed a priority date of 10 January 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, 10 July 2004.

On 06 July 2004, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and an executed declaration.

On 26 October 2004, applicants filed "Petition to Convert," which requests that the application papers submitted on 06 July 2004 be considered a filing under 35 U.S.C. 111.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 06 July 2004, applicants submitted a specification which stated "this application is a continuation of copending international application no. PCT/EP02/14079, filed 11 December 2002, which designated the United States and was not published in English." The statement in the specification is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 06 July 2004 should have been treated as a filing under 35 U.S.C. 111(a).

CONCLUSION

The petition to convert the application from a national stage application under 35 U.S.C. 371 to a 35 U.S.C. 111 filing is **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

Anthony Smith
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Office of PCT Legal Administration
Tel: (571) 272-3298
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UNITED STATES PATENT AND TRADEMARK OFFICE

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MOETTELI & ASSOCIATES SARL
ST. LEONHARDSTRASSE 4
ST GALLEN CH-90-00 CH SWITZERLAND

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OFFICE OF PETITIONS

In re Application of :
Andre Lechot :
Application No. 10/500,944 : DECISION ON PETITION
Filed: July 7, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. PUS-P001-029 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 23, 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 a statement from Inventor Andre Lechot stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3733 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

21 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111

In re Application of	:	
GNAUCK et al.	:	
Application No.: 10/500,591	:	DECISION ON PETITION
Filing Date: 30 December 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: (Z)00052PUS	:	
For: DETECTOR FOR VARYING PRESSURE RANGES, AND ELECTRON MICROSCOPE WITH A CORRESPONDING DETECTOR	:	

This is a decision on applicant's "Petition for Revival of an Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed 30 December 2003.

BACKGROUND

On 29 June 2001, applicants filed international application PCT/EP01/07431,which claimed a priority date of 07 July 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 January 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, 07 January 2003.

On 30 December 2003, applicant filed, *inter alia*: a transmittal letter requesting entry into the national stage in the United States, which included: an application containing a specification, including claims and drawings; a basic national filing fee of $1080; a substitute specification; an English translation of PCT/EP01/07431; an executed declaration of the inventors; and the instant petition and fee to revive the international application as to the United States under 37 CFR 1.137(b).

DISCUSSION

International application PCT/EP01/07431 became abandoned as to the United States of America at midnight on 07 January 2003 for failure to pay the basic national fee.

A. Conflict In Filing Instructions

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions

set forth in 35 U.S.C. 371(c). See 37 CFR 1.494(f):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-191 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 30 December 2003, applicants submitted a substitute specification which stated, "[t]his is a continuation application of PCT/EP01/07431 claiming priority of German Patent Applications 100 32 599.8 filed July 7, 2000 and 101 26 698.7 filed May 31, 2001." The statement is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 30 December 2003 will be treated as a filing under 35 U.S.C. 111(a).

B. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the filing of the continuing application.

As to Item (2), the appropriate petition fee of $1330.00 has been submitted.

As to item (3), the statement "[t]he entire delay from the due date for filing a national phase application until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

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

CONCLUSION

For the reasons discussed above, applicant's petition to revive international application PCT/EP01/07431 is **GRANTED**.

International application no. PCT/EP01/07431 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the continuing application number 10/500,591.

The application will then be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York, NY 10018

Mail Date: 04/27/2010

Applicant	: Keizo Sugasawa	: DECISION ON REQUEST FOR
Patent Number	: 7638536	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/500,964	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **841** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100701-A

DATE : July 01, 2010

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7638536

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:

/Janet L Andres/
Supervisory Patent Examiner.Art Unit 1625

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

Mail Date: 05/07/2010

Applicant	: Carl Sidonius Maria Andela	: DECISION ON REQUEST FOR
Patent Number	: 7611877	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/500,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **557** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

22 DEC 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Stuart J. Friedman
28930 Ridge Road
Mt. Airy, MD 21771

In re Application of BRESSY et al.	:
Application No.: 10/500,983	: DECISION ON PETITION
PCT No.: PCT/EP03/00075	:
Int. Filing: 07 January 2003	:UNDER 37 CFR 1.47(a)
Priority Date: 07 January 2002	:
Attorney Docket No.: 740612-186	:
For: PROTECTING A DEVICE AGAINST UNINTENDED USE IN A SECURE ENVIRONMENT	:

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 27 October 2004, to accept the application without the signature of joint inventor, Philippe Bressy.

BACKGROUND

On 06 July 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 September 2004, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 27 October 2004, applicant filed the instant petition along with a declaration executed by the joint inventor on behalf of the nonsigning inventor Philippe Bressy. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Philippe Bressy, alleging that Mr. Bressy refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor, Philippe Bressy, was provided. With regard to item (4), the declaration was executed by the joint inventor on his behalf and on behalf of the non-signing inventor and satisfies the requirements of 37 CFR 1.47(a).

Applicant satisfied Item (2) with the submission of the statement of Virginie Delemotte, patent manager for SCM Microsystems, stating that she "forwarded the patent application to the other inventor, Philippe Bressy, ...he refused to sign the Declaration and Power of Attorney

unless he was paid monies to which he is not entitled." (Delemotte Decl. ¶3). Ms Delemotte further states: " a registered letter with confirmation of delivery was sent by me to Philippe Bressy on September 27, 2004, which was the identical letter sent on August 9, 2004 except that this letter enclosed copies of the application as well as the Declaration and Power of Attorney and Assignment. It requested that he sign the Declaration and Assignment and return the signed documents by October 15, 2004. " A copy of this letter was attached to Ms. Delemotte's statement.

A copy of the E-mail correspondence (with English translations) between Mr. Bressy and Ms. Delemotte were provided, wherein Mr. Bressy refuses to sign the documents without compensation. This is sufficient evidence to conclude that Philippe Bressy refuses to sign the declaration. Ms Delemotte's statement satisfies Item (2) above.

Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED.**

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 27 October 2004. The application has an international filing date of 07 January 2003 under 35 U.S.C. 363, and a date of 27 October 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their 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 Designated/Elected Office for further processing.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

22 DEC 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PHILIPPE BRESSY
8 RUE DU LANCON
83190 OLLIOULES
FRANCE

In re Application of BRESSY et al.	:
Application No.: 10/500,983	: DECISION ON PETITION
PCT No.: PCT/EP03/00075	:
Int. Filing: 07 January 2003	:UNDER 37 CFR 1.47(a)
Priority Date: 07 January 2002	:
Attorney Docket No.: 740612-186	:
For: PROTECTING A DEVICE AGAINST UNINTENDED USE IN A SECURE ENVIRONMENT	:

Dear Mr. Bressy:

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

Stuart J. Friedman
28930 Ridge Road
Mt. Airy, MD 21771

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 05/06/2010

Applicant	: Jun-ichi Kawakami	: DECISION ON REQUEST FOR
Patent Number	: 7662974	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/500,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **918** 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 DEPARTMENT OF COMMERCE
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ALEXANDRIA, VA 22313-1450

Date : 4/29/2009
Patent No. : 7,468,118 B2
Serial No. : 10/501,013
Inventor(s) : Magaldi et al.
Issue Date : December 23, 2008
Title : **EXTRACTION, DRAINAGE AND TRANSPORT OF PETROLEUM COKE**
Doc./File No. : **IPS-010**

Re: Certificate of Correction (Reconsideration)

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

Respecting the alleged errors in your request, inspection of the file of the application for the patent reveals that the allged error in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

Olson & Cepuritis, LTD.
20 NORTH WACKER DRIVE
36TH FLOOR
CHICAGO IL 60606

ecw

07 FEB 2005

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#7

James E. Ledbetter
Stevens Davis Miller & Mosher, L.L.P
1615 L Street, NW, Suite 850
P.O. Box 34387
Washington, D.C. 20043-4387

In re Application of	:	
UENO et al.	:	
Application No.: 10/501,022	:	DECISION ON REQUEST
PCT No.: PCT/JP03/00048	:	
Int. Filing Date: 07 January 2003	:	
Priority Date: 10 January 2002	:	
Attorney Docket No.: L8462.04121	:	
For: DISK DRIVE	:	

This is a decision on applicants' "Response to Notification of Missing Requirements" filed 15 December 2004.

BACKGROUND

On 07 January 2003, applicants filed international application no. PCT/JP03/00048 which claimed a priority date of 10 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 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, 10 July 2004.

On 09 July 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 an executed declaration.

On 15 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration filed 09 July 2004 was defective because the second inventor's name on the declaration did not correspond with the published international application.

On 15 December 2004, applicants filed "Response to Notification of Missing Requirements" stating that the second inventor's name is Teruyuki Naka, not Akiyuki Naka.

DISCUSSION

A review of the application file, including petitioner's statements in "Response to Notification of Missing Requirements" reveals that the declaration identifies a different inventor than that indicated in the published international application. Namely, the declaration identifies and is signed by "TERUYUKI Naka" whereas the international application identifies "AKIYUKI Naka." In that this is clearly more than a mere typographical error, transliteration, or a phonetic misspelling of applicant's roman name a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

For the reasons above, the request is **DISMISSED** without prejudice.

If reconsideration 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 "Petition Under 37 CFR 1.182", and must include the requisite petition fee and an acceptable explanation of the facts as discussed above. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.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

06 MAY 2005

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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James E. Ledbetter
Stevens Davis Miller & Mosher, L.L.P
1615 L Street, NW, Suite 850
P.O. Box 34387
Washington, D.C. 20043-4387

In re Application of :
UENO et al. :
Application No.: 10/501,022 : DECISION ON REQUEST
PCT No.: PCT/JP03/00048 :
Int. Filing Date: 07 January 2003 :
Priority Date: 10 January 2002 :
Attorney Docket No.: L8462.04121 :
For: DISK DRIVE :

This decision is in response to applicants' "Petition under 37 CFR 1.182" filed 31 March 2005. The $400 petition fee has been submitted.

BACKGROUND

On 07 January 2003, applicants filed international application no. PCT/JP03/00048 which claimed a priority date of 10 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 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, 10 July 2004.

On 09 July 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 an executed declaration.

On 15 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration filed 09 July 2004 was defective because the second inventor's name on the declaration did not correspond with the published international application.

On 15 December 2004, applicants filed "Response to Notification of Missing Requirements" stating that the second inventor's name is Teruyuki Naka, not Akiyuki Naka. In a "Decision on Request" dated 07 February 2005, the Office of PCT Legal Administration indicated that the declaration filed 09 July 2004 was not in compliance with 37 CFR 1.497.

On 31 March 2005, applicants filed a "Petition under 37 CFR 1.182."

DISCUSSION

A review of the present petition, including the declaration of Teruyuki Naka, Keiichi Yubakami, and Teruo Miyai, reveals that without deceptive intent the PCT documents corresponding to the above identified application incorrectly transliterated the first name of the inventor as "AKIYUKI " instead of "TERUYUKI." As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, the spelling of the inventor's name is noted for the record.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to United States Designated/Elected Office for further processing with the name of the inventor as TERUYUKI Naka and for review of the national stage papers submitted 09 July 2004 and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of **09 July 2004** under 35 U.S.C. 371(c).

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

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Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W., Suite 1200
Washington, DC 20006

Mail Date: 04/21/2010

Applicant	: Shigeto Ueno	: DECISION ON REQUEST FOR
Patent Number	: 7581233	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/501,022	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Anthony Victor Bridgwater	: DECISION ON REQUEST FOR
Patent Number	: 7625532	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/501,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1242** 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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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

In re Application of BEAULIEU et al.
Application No.: 10/501,027
PCT No.: PCT/EP02/14822
Int. Filing: 20 December 2002
Priority Date: 11 January 2002
Attorney Docket No.: 21.1018
For: DEVICE FOR CHARACTERIZING THE FLOW OF A MULTIPHASE FLUID IN A TUBING

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that a declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors and the $130 surcharge for filing the declaration after the thirty month period has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 March 2006.

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

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

15 NOV 2005

#5

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Saliwanchik Lloyd & Saliwanchik
A Professional Corporation
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of :
CSAKAI et al. :
Application No.: 10/501,029 :
PCT No.: PCT/HU03/00003 : DECISION ON PETITION
Int. Filing Date: 10 January 2003 : UNDER 37 CFR 1.47(a)
Priority Date: 11 January 2002 :
Attorney Docket No.: SBGK-102 :
For: CARBOXAMIDINE DERIVATIVES AND THEIR USE IN THE TREATMENT OF VASCULAR DISEASES :

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 25 July 2005 to accept the application without the signature of joint-inventor, Lázló Dénes. The required petition fee of $200.00 has been submitted.

BACKGROUND

On 10 January 2003, applicants filed international application PCT/HU03/00003 which claimed a priority date of 11 January 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, 11 July 2004.

On 09 July 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; a preliminary amendment; and an unexecuted declaration.

On 24 January 2005, 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 24 July 2005, applicants filed the present petition under 37 CFR 1.47(a) and a petition for a four-month extension of time.

DISCUSSION

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

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Lázló Dénes. The steps taken by Barbara A. Ruskin are sufficient to show that Lázló Dénes 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**.

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

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

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

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

15 NOV 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Lázló Dénes
Szarvas Gabor u. 55
H-1225 Budapest Hungary

In re Application of
CSAKAI et al.
Application No.: 10/501,029
PCT No.: PCT/HU03/00003
Int. Filing Date: 10 January 2003
Priority Date: 11 January 2002
Attorney Docket No.: SBGK-102
For: CARBOXAMIDINE DERIVATIVES AND THEIR USE IN THE TREATMENT OF VASCULAR DISEASES

Dear Lázló Dénes:

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

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

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

Counsel of Record:
Saliwanchik Lloyd & Saliwanchik
A Professional Corporation
P.O. Box 142950
Gainesville, FL 32614-2950

15 NOV 2005

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (László Dénes) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/HU03/00003 and was filed on 10 January 2003 in the names of Zita Jegesné Csákai; Ede Márványos; Magdolna Bathóné Török; and László Dénes for the invention entitled CARBOXAMIDINE DERIVATIVES AND THEIR USE IN THE TREATMENT OF VASCULAR DISEASES. The national stage application number is 10/501,029 and has a 35 U.S.C. 371 date of 25 July 2005.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

COCX

Paper No.: ___

DATE : 8/4/08

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/501032 Patent No: 7273703 B2

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Robert T. Nasted
SPE

1652
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 19 2005
Director's Office
Group 3700

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Sonnenschein Nath & Rosenthal LLP
P.O. Box 061080
Wacker Drie Station, Sears Tower
Chicago, IL 60606-1080

In re application of
Gary Ragan

Serial Number: 10/501042
Filed: July 08, 2004

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **ROASTER**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CRF 1.313.

The application is being withdrawn from issue to permit reopening of prosecution. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

The application is being forwarded to the examiner for action.

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 7/19/05

10 AUG 2004

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Isumi Yokoyama, PhD
Dickstein Shapiro Morin & Oshinsky LLP
1177 Avenue of the Americas
41st Floor
New York, New York 10036-2714

In re Application of	:	
AISSAOUI et al.	:	
Application No.: 10/501,054	:	DECISION ON PETITION
PCT No.: PCT/EP02/13577	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 02 December 2002	:	
Priority Date: 04 December 2001	:	
Attorney Docket No.: A0345.0003	:	
For: NOVEL QUINOLINE DERIVATIVES		

The petition to revive under 37 CFR 1.137(b) filed 09 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

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

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Jibing Zheng :
Application No. 10/501,055 :
Filed: July 9, 2004 :
Attorney Docket No. 04-567 :

This is a decision on the petition filed April 14, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and the formal drawings in a timely manner in reply to the Notice of Allowance mailed May 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 3, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is was received on November 30, 2007 and 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

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Paper No.

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

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JAN 19 2010

In re Application of	:	
Chesne et al.	:	
Application Number: 10/501065	:	NOTICE
Filing or 371(c) Date: 07/09/2004	:	
Attorney Docket Number: REGIM 3.3-025	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on November 2, 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 application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

Douglas Wood
Attorney
Office of Petitions

29 SEP 2004
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www.uspto.gov

Rocco S. Barrese, Esq.
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553

In re Application of	:	
Riccotta et al.	:	
Application No. 10/501,066	:	DECISION ON
PCT No.: PCT/US02/12136	:	
Int. Filing Date: 18 April 2002	:	PETITION UNDER
Priority Date: 20 April 2001	:	
Atty. Docket No.: 788-22 PCT US	:	37 CFR 1.137(b)
For: Apparatus And Method For	:	
Fixation Of Vascular Grafts	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 09 July 2004.

BACKGROUND

This international application was filed on 18 April 2002, claimed an earliest priority date of 18 April 2001, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 20 October 2003. This international application became abandoned with respect to the national stage in the United States for failure to 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), 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 submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

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PCT Legal Examiner
PCT Legal Office

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

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Oliver Ralf Petri
Avda. Europa 42-Local
A-Pozuelo De Alarcon
Madrid 28224 ES SPAIN

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APR 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Oliver Ralf Petri	:	
Application No. 10/501,085	:	
Filed: July 9, 2004	:	DECISION ON
Title of Invention:	:	PETITION
MICROWAVE MIXER/DRYER REACTOR FOR	:	
INDUSTRIAL USE	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 27, 2006, to revive the above-identified application. The petition is properly treated as a petition to withdraw the holding of abandonment of the application under 37 CFR 1.181 (no fee)[1].

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 27, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 28, 2005. A Notice of Abandonment was mailed December 16, 2005.

[1] A Decision on the petition to revive the application under 37 CFR 1.137(b) will be held in abeyance pending final resolution of the petition to withdraw the holding of abandonment.

Applicant files the instant petition wherein Applicant avers that non-receipt of the Notice.

Applicant is advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or 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 Applicant's statement.

Accordingly, Applicant's assertion, that the Office action was not received, is insufficient to justify withdrawing the holding of abandonment. Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed[2].

Applicant should file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

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

[2] It is noted that Applicant has filed with the petition copies of papers received from this Office; however, there is no assertion that the papers filed with the instant petition constitute Applicant's file jacket and docket records. As such, a copy of the file jacket and docket records where the non-received Notice would have been docketed and entered had it been received, is required.

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By hand: Customer Service Window
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By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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Oliver Ralf Petri
Avda. Europa 42-Local
A-Pozuelo De Alarcon
Madrid 28224 ES SPAIN

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Oliver Ralf Petri	:	
Application No. 10/501,085	:	
Filed: July 9, 2004	:	DECISION ON
Title of Invention:	:	PETITION
MICROWAVE MIXER/DRYER REACTOR FOR	:	
INDUSTRIAL USE	:	

This is a decision in response to the renewed petition to revive under 37 CFR 1.181, filed June 5, 2006, to revive the above-identified application. The petition is properly treated as a renewed petition to withdraw the holding of abandonment of the application under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 27, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 28, 2005. A Notice of Abandonment was mailed December 16, 2005.

Applicant filed a petition on February 27, 2006, wherein Applicant averred non-receipt of the Notice.

Decision dismissing the February 27, 2006 petition

A Decision dismissing the February 27, 2006 petition was mailed April 13, 2006. The Decision informed Applicant that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or 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 Applicant's statement.

Applicant was informed that Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed[1].

Applicant was advised to file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

[1] It is noted that Applicant has filed with the petition copies of papers received from this Office; however, there is no assertion that the papers filed with the instant petition constitute Applicant's file jacket and docket records. As such, a copy of the file jacket and docket records where the non-received Notice would have been docketed and entered had it been received, is required.

The instant renewed petition

Applicant files the instant renewed petition and provides a statement that "[t]he Applicant states that he had search[ed] the file jacket and docket records for the above-identified application and the search indicates that the Communication was never received by Applicant." Petition at p.2.

This statement is included in the body of the petition, which is not executed by the Applicant. Also included in the body of the petition, and not as a separate paper, is an attempt to file a Power of Attorney and Change of Correspondence Address. However, the Applicant (inventor) has not executed any such document.

Applicable Law, Rules and MPEP

Applicant is advised that what is required is a statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received. See MPEP 711.03(c).

Here, the person filing the petition was not in a position to know whether a search of the file jacket and docket records was conducted, or what the search revealed. The statement must come from a person with first hand knowledge of the facts alleged. A statement from the Applicant, who is possession of the application file and docket records during the period for which the Notice was mailed, is required.

Power of Attorney and Change of Correspondence Address

As provided in 37 CFR 1.4(c), "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

Here, Petitioner attempts to include a Power of Attorney and Change of Correspondence Address within the body of the petition. Petitioner is informed that the rule requires a

separate paper. Petitioner is advised to use the form provided by this Office, available at www.uspto.gov.

It is also noted that the inventor has not executed a Power of Attorney and Change of Correspondence Address. As provided in 37 CFR 1.32, a Power of attorney means a written document by which a principal designates a registered patent attorney or a registered patent agent to act on his or her behalf. Principal means either an applicant for patent [] or an assignee of entire interest of the applicant. The principal executes a power of attorney designating one or more registered patent attorneys or registered patent agents to act on his or her behalf.

Here, Petitioner seeks to appoint herself as the attorney of record, without the apparent consent of the inventor. A properly executed Power of Attorney and Change of Correspondence Address, properly filed as a separate paper, is required.

A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until proper instructions to the contrary are received.

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

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Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Cc: EVELYN A. DEFILLO
DEFILLO & ASSOCIATES, INC.
4922 EAGLE COVE SOUTH DRIVE
PALM HARBOR, FL 34685

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OFFICE OF PETITIONS

In re Application of	:	
Oliver Ralf Petri	:	
Application No. 10/501,085	:	
Filed: July 9, 2004	:	DECISION ON
Title of Invention:	:	PETITION
MICROWAVE MIXER/DRYER REACTOR FOR	:	
INDUSTRIAL USE	:	

This is a decision in response to the correspondence filed June 21, 2006, to withdraw the holding of abandonment of the application. The correspondence is properly treated as a renewed petition under 37 CFR 1.181.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 27, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 28, 2005. A Notice of Abandonment was mailed December 16, 2005.

Applicant filed a petition on February 27, 2006, wherein Applicant averred non-receipt of the Notice.

Decision dismissing the February 27, 2006 petition

A Decision dismissing the February 27, 2006 petition was mailed April 13, 2006. The Decision informed Applicant that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of

abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or 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 Applicant's statement.

Applicant was informed that Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed[1].

Applicant was advised to file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

The June 5, 2006 renewed petition

Applicant filed a renewed petition on June 5, 2006 and provided a statement that "[t]he Applicant states that he had search[ed] the file jacket and docket records for the above-identified application and the search indicates that the Communication was never received by Applicant." Petition at p.2.

This statement was included in the body of the petition, which was not executed by the Applicant. Also included in the body of

[1] It is noted that Applicant has filed with the petition copies of papers received from this Office; however, there is no assertion that the papers filed with the instant petition constitute Applicant's file jacket and docket records. As such, a copy of the file jacket and docket records where the non-received Notice would have been docketed and entered had it been received, is required.

the petition, and not as a separate paper, were instructions appointing an attorney and changing the correspondence address.

Decision dismissing the June 6, 2006 petition

The renewed petition filed June 6, 2006 was dismissed in a Decision mailed July 17, 2006. The Decision dismissing the petition required a statement (of non-receipt of the Office communication) from a person with first hand knowledge of the facts alleged, and also informed Applicant that a proper Power of Attorney and Change of Correspondence Address was required.

The June 17, 2006 petition

Applicant files a petition on June 17, 2006 and includes the appropriate statement from the Applicant, attesting to a fact that a search of the file jacket and docket records indicate that the Office communication was not received.

Applicant also notes that a Power of Attorney executed by the Applicant was in fact filed and included among the petition papers filed June 6, 2006. A review of the petition reveals that a properly executed Power of Attorney and Change of Correspondence Address was included among the petition papers filed June 6, 2006, but was inadvertently included as a petition and not as a Power of Attorney document.

The petition is granted.

The Power of Attorney and Change of Correspondence Address has been entered and made of record.

A refund of the fee for the petition under 37 CFR 1.137(b) has been scheduled via treasury check.

The file is being referred to Publishing Division for processing into a patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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Paper No.

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SUITE 1319
HOUSTON TX 77079

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JAN 23 2009

OFFICE OF PETITIONS

In re Application of :
Szajdecki et al. : DECISION ON PETITION
Application No. 10/501,116 :
Filed: July 12, 2004 :
Atty Docket No. LHUD-03401-NUS:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed October 7, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action sent February 7, 2008. The Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No proper reply having been received and no extensions of time obtained, the above-identified application became abandoned on May 8, 2008. A courtesy Notice of Abandonment was sent on August 25, 2008.

In response, applicants filed the instant petition. The petition includes the required reply in the form of a continuation application filed on August 7, 2008, payment of the petition fee and the required statement of unintentional delay. Petitioner seeks revival solely for continuity purposes.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application (application No. 12/188,093) filed August 7, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/13/09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10501120 Patent No.: 7524883 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Janet L. Andres/ SPE Art Unit 1625

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JUN 0 9 2008

DAVID E. HEISER
E I du Pont de Nemours & Company
Legal Patents
Wilmington DE 19898

In re Application of	:
Stephen Ray Foor	:Decision on Petition
Serial No.: 10/501,126	:
Filed : 9 July 2004	:
Attorney Docket No.: BA9297USPCT	:

This letter is in response to the Renewed Petition under 37 C.F.R. 1.144 filed on 3 March 2008 requesting reconsideration of the lack of unity requirement mailed 17 April 2007.

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 17 April 2007, the examiner set forth a lack of unity requirement which divided the claims 1-16 into 12 groups. Claim 1 and claim 6 were placed in part into 9 groups depending upon the second compound (b) of the composition. It is noted that claim 1 and 6 encompassed more than one type of (b) in view of the language "at least compound...." Claim 7 specially required a second type of (b) and was placed in groups I-IV and VI-IX, all partially. The examiner did not require a further election of additional components of (b) as encompassed by original claims 1 and 6 and as required by original claim 7. The examiner did not cite prior art to show that the technical feature did not make a contribution over the prior art instead. Instead, the examiner reasoned that each group required a technical feature not required for another and vice versa.

On 9 May 2007, applicants elected Group II, claims 1, 2 and 6-11, (all partially) and claims 4 and 5 (both complete) with traverse. Applicant also argued that Claim 7 should be included in Group II because the elected compound from (b2) is included in the composition of claim 7.

On 30 May 2007, the examiner set forth a non-final Office action in which Claims 3, 12, 14, 15 and 18-22 were withdrawn from consideration. The examiner considered the traversal and argued that applicants' submission that claim 7 be completely included in Group II was not persuasive because additional compounds were required by claim 7. The restriction requirement was made final. Newly added claims 18-22 were withdrawn from consideration. Claims 1-2, 4-11 and 17 were rejected under 35 USC 103(a) as being unpatentable over Moloney in view of Bereznak and further in view of Jordan. Claims 1 and 4-11 were provisionally rejected over obviousness type double patenting.

On 19 September 2007, applicant responded to the Office action and amended the claim 18 to remove the clause "and optionally at least one component selected from the group consisting of compounds of (b1), (b3), (b4), (b5), (b6), (b7), (b8), and (b9)" and added new claims 23-28.

On 12 December 2007, the examiner set forth a final Office action in which claims 21-23 and 26 were withdrawn from consideration. In view of the amendment to claim 18, Claims 18-20 were rejoined with Group II for examination. The provisional double patenting and obviousness rejections of record were maintained. The obviousness rejection was made on amended claims 18, 19-20, and new claims 24-25 and 27-28. The Office action was made final.

On 3 March 2008, applicants filed this petition.

DISCUSSION

The file history and petition have been considered carefully.

The claims in this application are directed to a composition comprising a compound having Formula I and one or more second compounds of (b), which are listed as (b1), (b2), (b3), (b4), (b5), (b6), (b7), (b8), and (b9). The claims permit one or more second components such that second components may be combined, for example, as (b1) and (b2), (b2) and (b3), etc, etc, all the way up to the entire set of (b1), (b2), (b3), (b4), (b5), (b6), (b7), (b8), and (b9).

The examiner has found unity of invention lacking among the subcombinations of (b1), (b2), (b3), (b4), (b5), (b6), (b7), (b8), and (b9), however the lack of unity did not provide applicants an opportunity to elect a combination such as those set forth in claims 6 and 7. Applicants elected the composition comprising a compound having Formula I and the second compound of (b2). All claims which do not require the elected subcombination of (b2) have been cancelled.

Applicant also has presented claims which to a composition having Formula I, a second component of (b2) and optionally recite other non-elected compounds in addition to the elected (b2).

In the final Office action, the examiner withdrew new claim 26 from examination while at the same time, providing an examination of claims 6 and 7. Claim 26 and claims 6 and 7 are set forth below. Applicants reasonably ask how claims 6 & 7 can reasonably be included in the examination while claims 21-23 are not.

6. (Currently amended) The composition of Claim 1 wherein component (b) comprises at least one compound selected from (b2) and at least one compound ~~each of two different groups~~ selected from (b1), ~~(b2),~~ (b3), (b4), (b5), (b6), (b7), (b8) and (b9).

7. (Original) The composition of Claim 6 wherein component (b) comprises at least one compound selected from (b2) and at least one compound selected from (b1), (b3), (b6), (b7), (b8) or (b9); wherein the overall weight ratio of component (b) to component (a) is from 30:1 to 1:30; and wherein the weight ratio of component (b2) to component (a) is from 10:1 to 1:1.

26. (New) The composition of Claim 24 further comprising at least one compound selected from the group consisting of

(b1) alkylenebis(dithiocarbamate) fungicides;
(b3) cymoxanil;
(b4) compounds acting at the demethylase enzyme of the sterol biosynthesis pathway;
(b5) morpholine and piperidine compounds that act on the sterol biosynthesis pathway;
(b6) phenylamide fungicides;
(b7) pyrimidinone fungicides;
(b8) phthalimides; and
(b9) fosetyl-aluminum.

The lack of unity requirement divided the claims 1-16 into 12 groups. Claim 1 and claim 6 were placed in part into 9 groups depending upon the second compound (b) of the composition. It is noted that claim 1 and 6 encompassed more than one type of (b) in view of the language "at least compound...." Claim 7 specially required a second type of (b) and was placed in groups I-IV and VI-IX, all partially. The examiner did not require a further election of additional components of (b) as encompassed by original claims 1 and 6 and as required by original claim 7. Nor did the examiner clearly specify that combination claims would not be examined with the elected subcombination. Applicant was not properly afforded an opportunity to elect the invention present in original claims 6 and 7 and in newly added claims 21-23 and 26.

DECISION

The petition filed under 37 CFR 1.144 on 3 March 2008 is **GRANTED** to the extent that applicant has not been properly afforded an opportunity to select an invention present in original claims 6, 7, and in newly added claims 21-23 and 26.

The Final Office action of December 12, 2007 will be vacated and the application returned to the examiner for consideration of the papers filed 3 March 2008 and for preparation of a revised lack of unity consistent with this petition decision.

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

George Elliot
Director, Technology Center 1600

DATE 10/1/07

APPLICATION NUMBER 10/501129

COPY MAILED

DOC CODE PET.DEC.TC

DOC DATE OCT 02 2007

OFFICE OF PETITIONS

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DONALD N MACINTOSH
LAW OFFICES OF DONALD N MACINTOSH
180 MONTGOMERY STREET
SUITE 600
SAN FRANCISCO, CA 94104

COPY MAILED

OCT 02 2007

OFFICE OF PETITIONS

In re Application of :
Martin Clive-Smith :
Application No. 10/501,129 : ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. A-760423/DNM :

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

The petition is **DISMISSED AS MOOT**.

A review of the record discloses that a non-final Office action was mailed on November 29, 2006, which set a shortened statutory period for reply of three (3) months. On May 30, 2006, an amendment, including an appropriate three-month extension of time, was file using a certificate of facsimile transmission dated May 29, 2006. Since May 29, 2006 was a federal holiday, the response was properly accorded a filing date as of the next business day, i.e., May 30, 2006. Thus, the response filed May 30, 2006 is considered timely.

Since no abandonment exists, the petition under 37 CFR 1.137(b) is unnecessary. The $750 petition fee is being credited to counsel's deposit account as authorized.

The application is being referred to Technology Center AU 3637 for appropriate action by the Examiner in the normal course of business on the reply received May 30, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Losfeld et al.	:	DECISION ON
Patent Number: 7,585,583	:	REQUEST FOR
Issue Date: 09/08/2009	:	RECONSIDERATION OF
Application No. 10/501146	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 07/13/2004	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
016782-0309	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 8, 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 four hundred fifty-four (1454) 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 fifty-four (1454) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. As the fee is required pursuant to 37 CFR 1.705(d), the request for refund is **DISMISSED**.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred fifty-four (1454)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,585,583 B2

DATED : **September 8, 2009**

INVENTOR(S) : Losfeld 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 918 days.

Delete the phrase "by 918 days" and insert – by 1454 days--

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TECHNOLOGY CENTER 2100

WENDEROTH, LIND & POANCK, L.L.P.
JEFFREY R. FILIPEK, ESQ.
2033 K STREET, N.W., SUITE 800
WASHINGTON, DC 20006-1021

In re Application of: MATSUDA, et al.
Application No. 10/501,150
Filed: July 13, 2004
For: ERROR CORRECTION METHOD AND APPARATUS FOR INTERLEAVED DATA

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed August 24, 2006 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) **Submits a detailed discussion of the references**, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

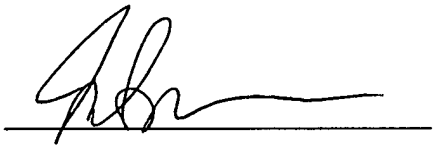
The petition filed August 24, 2006 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. For each of the references deemed most closely related, it is stated that the reference fails to disclose or teach "the erasure position information that is used when performing error correction on a code line that is previous to a target code line in a correction order", "the ability to judge whether or not first and second data existed between the same sub data before being deinterleaved when the code line of the previous error correction performed error correction using the erasure position information", and "configuring the erasure position information". It is noted that none of the independent claims (i.e. 1, 7, 17, 22, 27, and 32) appear to include all of the above identified claim language.

Petitioner should ensure that the above discussion is directed to how the language of **each of** the independent claims is **specifically** distinguishable and patentable from each of the references provided in requirement (d) above. The identification must be accurate and consistent with the language set forth in the (independent) claims of the instant application. It is suggested that the discussion of each reference be amended to address the concerns set forth in the immediately preceding paragraph.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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.



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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of :
Struszczyk et al. :
Application No. 10/501,174 : DECISION ON PETITION
Filed: 15 March, 2005 :
Attorney Docket No. 7007US01 :

This is a decision on the petition filed on 14 August, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 January, 2006, for failure to timely reply to the non-final Office action mailed on 13 October, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a)

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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)).

were obtained. Notice of Abandonment was mailed on 18 May, 2006.

Petitioners have filed an amendment to the claims in response to the Office action.

This application is being referred to Technology Center 1623 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

25 OCT 2007

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	
KARATZAS et al.	
App. No.: 10/501,183	
PCT No.: PCT/IB03/00346	DECISION ON PETITION
Int. Filing Date: 13 January 2003	
Priority Date: 11 January 2002	UNDER 37 CFR 1.10(c)
Atty. Docket No.: 9529-008-999	
For: METHODS OF PRODUCING SILK POLY-PEPTIDES AND PRODUCTS THEREOF	

This is a decision on applicant's "Petition to Correct Filing Date under 37 CFR 1.10(c)" filed in the United States Patent and Trademark Office (USPTO) on 22 August 2007, to accord a filing date of 07 October 2007 to the above-identified application papers. No petition fee is required.

BACKGROUND

On 13 January 2003, applicant filed international application No. PCT/IB03/00346, which claimed a priority date of 11 January 2002 and which designated the United States. The deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 11 July 2004.

On 09 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 25 August 2004, a Notification of Missing Requirements was mailed indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required.

On 07 October 2004, applicant filed a response to the Notification.

On 02 August 2007, a Notification of Acceptance and filing receipt were mailed to applicant indicating a filing date under 35 U.S.C. 371(c) of 07 October **2006**. On 22 August 2007, applicant filed a petition under 37 CFR 1.10(c)[1] requesting a corrected filing date, and

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[1] 37 CFR 1.10(c) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord

included a copy of the Customer Receipt of the "Express Mail" mailing label #EV456933018US.

DISCUSSION

A review of the application file itself reveals that applicant's response to the Notification of Missing Requirements, including a declaration executed by the inventors, was filed in the USPTO on 07 October **2004** along with authorization to charge applicant's deposit account. The declaration is acceptable and is in compliance with 37 CFR 1.497(a) and (b). Applicant's deposit account will be charged the $130 surcharge for filing the declaration after the thirty month period.

The indication in the official USPTO record is sufficient to establish that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of all 35 U.S.C. 371 requirements was on 07 October **2004.** The 02 August 2007 Notification of Acceptance erroneously indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 October 2006. The Notification of Acceptance is hereby vacated.

A new Notification of Acceptance will be issued, indicating **07 October 2004** as the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of all 35 U.S.C. 371 requirements.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **DISMISSED as MOOT**.

Applicant's request that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of al 35 U.S.C. 371 requirements be corrected to **07 October 2004** is **GRANTED**.

The 02 August 2007 Notification of Acceptance is hereby **VACATED.** The new Notification of Acceptance will be issued indicating the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and the completion of all 35 U.S.C. 371 requirements was on **07 October 2004.**

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

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the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

decision, including issuance of a corrected Notification of Acceptance and filing receipt.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

10/25/2007 SBASHEIR 00000005 503013 10501183
Sale Ref: 00000005 DA#: 503013 10501183
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NEW YORK, NY 10112-4498

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OFFICE OF PETITIONS

In re Application of :
Kazuhiko Honda, et. al. :
Application No. 10/501,188 : ON PETITION
Filed: July 8, 2004 :
Attorney Docket No. A36289 PCT USA :
0742240139 :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 15, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed July 12, 2006. A Notice of Abandonment was mailed on February 8, 2007.

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 Chang Sik Kim 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.

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 $790 filing fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1775, 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

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OFFICE OF PETITIONS

DYKEMA GOSSETT PLLC
10 S. WACKER DR., STE. 2300
CHICAGO, IL 60606

In re Application of :
Henryk STRUSZCZYK, et al :
Application No. 10/501,202 : DECISION ON PETITION
Filed: July 9, 2004 : TO WITHDRAW
Attorney Docket No. 065379-0044 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 31, 2007.

The request is **NOT APPROVED**.

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.

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: CAMERON KERRIGAN
SQUIRE, SANDERS & DEMPSEY LLP
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

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OFFICE OF PETITIONS

DYKEMA GOSSETT PLLC
10 S. WACKER DR., STE. 2300
CHICAGO, IL 60606

In re Application of :
Henryk STRUSZCZYK, et al :
Application No. 10/501,202 : DECISION ON PETITION
Filed: July 9, 2004 : TO WITHDRAW
Attorney Docket No. 065379-0044 : 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 11, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Dykema Gossett PLLC has been revoked by the assignee of the entire interest of the patent application on September 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: CAMERON KERRIGAN
ONE MARITIME PLAZA
SUITE 300,
SAN FRANCISCO, CA 94111-3492

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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
10/501,202	07/09/2004	Henryk Struszczyk	065379-0044

CONFIRMATION NO. 3240

OC000000026036645

57360
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

Date Mailed: 09/27/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2007. .

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.

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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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/501,202	07/09/2004	Henryk Struszczyk	065379-0044

CONFIRMATION NO. 3240

OC000000026036632

38939
DYKEMA GOSSETT PLLC
10 S. WACKER DR., STE. 2300
CHICAGO, IL 60606

Date Mailed: 09/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2007.

- 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).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

18 JUL 2005

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Oona A. Jackson
Novartis
Corporate Intellectual Property
One Health Plaza, Building 104
East Hanover, NJ 07936-1080

In re Application of :
HOHNEKER, et al. :
Serial No.: 10/501,207 :
PCT No.: PCT/EP03/00232 : DECISION ON PETITION
Int. Filing Date: 13 January 2003 :
Priority Date: 14 January 2002 : UNDER 37 CFR 1.47(a)
Atty Docket No.: ON/4-32312A :
For: COMBINATIONS COMPRISING :
EPOTHILONES AND :
ANTI-METABOLITES :

This decision is in response to the applicant's "Inventor's Refusal to Sign: Statement of Facts" filed 02 March 2005 in the United States Patent and Trademark Office (USPTO). The paper is being treated as a petition under 37 CFR 1.47(a) to proceed without the signature of joint inventor John David Rothermel. The $200.00 petition fee will be charged to Deposit Account No.: 19-0134 as authorized.

BACKGROUND

On 13 January 2003, applicant filed international application PCT/EP03/00232 which claimed priority to an earlier application filed 14 January 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 July 2004.

On 09 July 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 preliminary amendment.

On 09 February 2005, 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 02 March 2005, applicant filed the present petition accompanied by a combined declaration and power of attorney executed by joint inventors John Arthur Hohneker and Paul M.J. McSheehy.

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....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."

Applicant states that a complete set of application papers was mailed to Mr. Rothermel via Federal Express on 13 August 2004. However, applicant has not provided any evidence that the parcel was delivered to Mr. Rothermel nor a firsthand account of the preparation and mailing of the package. Similarly, applicant has not provided a statement from an individual to whom the refusal to sign any further documents was addressed.

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**.

As authorized, the $200.00 petition fee will be charged to Deposit Account No.: 19-0134.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

19 OCT 20

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Oona A. Jackson
Novartis
Corporate Intellectual Property
One Health Plaza, Building 104
East Hanover, NJ 07936-1080

In re Application of	:	
HONEKER, et al.	:	DECISION ON RENEWED
Application No.: 10/501,207	:	
PCT No.: PCT/EP03/00232	:	PETITION UNDER
Int. Filing Date: 13 January 2003	:	
Priority Date: 14 January 2002	:	37 CFR 1.47(a)
Atty. Docket No.: ON/4-323 12 A	:	
For: COMBINATIONS COMPRISING	:	
EPOTHILONES AND ANTI-METABOLITES	:	

This decision is in response to applicant's "Decision on Petition Under 37 CFR 1.47(b) is Moot" filed 22 September 2005. No petition fee is required.

BACKGROUND

On 18 July 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 22 September 2005, applicant responded with the present renewed petition accompanied by a petition for a one-month extension of time and payment of the appropriate extension fee. Therefore, renewed petition is considered to be timely filed.

DISCUSSION

A review of the present filing finds that applicant has currently provided an combined declaration and power of attorney executed by the last remaining inventor, John David Rothermel. AS such, all three of the inventors listed on the published international application have submitted executed declarations and all of the requirements under 35 U.S.C. 371 have now been completed.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The application has an international filing date of 13 January 2003 under 35 U.S.C. 363, and will be given a date of **22 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.

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

27 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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George W. Wasson
3123 Indian Way
Lafayette, CA 94549

In re Application of BENESI et al	:	
U.S. Application No.: 10/501,208	:	
PCT Application No.: PCT/US03/01746	:	
Int. Filing Date: 21 January 2003	:	DECISION
Priority Date Claimed: 22 January 2002	:	
Attorney Docket No.: SCB-03-1-PCT-US	:	
For: HOT-GAS PRESSURE-FILTER APPARATUS	:	

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 19 May 2005.

BACKGROUND

On 21 January 2003, applicant filed international application PCT/US03/01746, which claimed priority of an earlier United States application filed 22 January 2002. The thirty-month period for paying the basic national fee in the United States expired on 22 July 2004.

On 09 July 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the full basic national fee required by 35 U.S.C. 371(c)(1).

On 05 May 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 pay the basic national fee.

On 19 May 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required 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.

A review of the application file reveals that applicant timely submitted a proper request under PCT Rule 92*bis* regarding the inventorship. Thus, the declaration filed 09 July 2004 is accepted under 37 CFR 1.497.

The application has an International Filing Date under 35 U.S.C. 363 of 21 January 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 May 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
PCT Legal Office

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

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OFFICE OF PETITIONS

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

In re Patent No. 7,476,906	:	
Furst, et al.	:	DECISION DISMISSING
Application No. 10/501,209	:	REQUEST FOR
Issue Date: January 13, 2009	:	RECONSIDERATION OF
Filed: January 6, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
MAIKP141WOUS	:	

This is in response to the APPLICTAION FOR PATENT TERM ADJUSTMENT INCLUDING UNDER 37 CFR § 1.705(d), filed March 13, 2009. Patentees request that the determination of patent term adjustment be corrected from one hundred sixty-six (166) days to three hundred ninety-one (391) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 166 days.

BACKGROUND

This application was filed on January 6, 2005. On February 19, 2008, a request for continued examination (RCE) was filed. On January 13, 2009, the application matured into U.S. Patent No. 7,476,906, with a revised patent term adjustment of 166 days. The Office determined that the 225 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under

the 317 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 317 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 151 days, the patent issued with a revised patent term adjustment of 166 (317 - 151) days.

On March 13, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee). See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 542 days under the court's 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). Patentees assert that pursuant to Wyeth, periods of delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap only if they occur on the same calendar day or days. Patentees state that the total period of Office delay is the sum of the period of Three Year Delay (225 days) and the period of examination delay (317 days) to the extent that these periods of delay are not overlapping. Patentees contend no periods of delay

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35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

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

[2] As of the filing of the RCE on February 19, 2008, the application was pending three years and 225 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A first Office action was not mailed until January 17, 2007, fourteen months and 317 days after the date of completion, January 6, 2005.

attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees maintain that they are entitled to the periods of adjustment under both 37 CFR 1.703(a) and (b) for a total patent term adjustment of 391 (542 (317 + 225)- 151) days.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 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.

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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

---

[5] 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.

> 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).

Further, 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.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office, July 9, 2004, and ending on the date of filing of a request for continued examination (RCE), February 19, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not

include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 317 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 225 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date the national stage commenced under 35 U.S.C. 371(b).

All of the 225 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 317 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 317 days and the 225 days is neither permitted nor warranted. 317 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 166 days (317 days of Office delay - 151 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.

Telephone inquiries specific to this matter 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

21 JUN 2006

#9

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Rico Novella, Francisco, Jose
Avda. Europa 42-Local A
Pozuelo de Alarcon
Madrid 28224 ES SPAIN

In re Application of: Rico Novella et al.	:	
Application No.: 10/501211	:	
PCT Application No.: PCT/ES03/00008	:	
Int. Filing Date: 01 October 2003	:	NOTIFICATION
Priority Date Claimed: 15 January 2002	:	OF FEE DUE
Attorney Docket No.:	:	
For: METHOD OF SENDING AND VALIDATING DOCUMENTS	:	

This notice is in response to an inquiry into the status of the above-identified application.

BACKGROUND

On 28 February 2005, a Notification of Missing Requirements (PCT/DO/EO/905) was mailed to the applicant, requiring the submission of a translation of the application into the English language, along with the payment of a surcharge of $130 for the English translation, and setting a time period of two (2) months from the date of the notice or 32 months from the priority date, whichever is later, within which to submit the missing requirements.

On 21 April 2005, applicant filed an English translation along with an authorization to charge the corresponding fee. On 14 July 2005 a second English translation was received, and on 22 November 2005 a $130 fee was charged to the applicant. The $130 fee, however, was recorded as payment for a late oath or declaration for a Large Entity (fee code 1617), rather than payment for a late translation (fee code 1618), whereas a declaration had been submitted on 13 July 2004 along with the original papers requesting entry into the national stage in the United Sates. Moreover, $65 of the fee was refunded to the applicant to reflect the fee for a late oath or declaration for a Small Entity (fee code 2617).

On 12 January 2006, a Notification of Defective Response (PCT/DO/EO/916) was mailed to the applicant, requiring the payment of additional claim fees of $780 as a Small Entity, including a multiple dependent claim fee, along with the $130 fee for a late translation. The Notification required the applicant to complete the response within a time limit of one month

from the date of the notice or within the time remaining in the period for response to the Notification of Missing Requirements, whichever is longer. The Notification of Defective Response indicated that no extension of the time limit would be permitted under 37 CFR 1.136, but extension of the period for response set in the Notification of Missing Requirements would be permitted under 37 CFR 1.136(a). The maximum extendable period under 37 CFR 1.136 for response to the Notification of Missing Requirements had expired as of the mailing date of the Notification of Defective Response. Consequently, the Notification of Defective Response effectively set a non-extendable period of one month to respond to the notice.

No response to the Notification of Defective Response mailed 12 January 2006 has been received.

DISCUSSION

The evidence of record is that a translation of the application into the English language was filed on 21 April 2005 and again on 14 July 2005. An authorization to charge the requisite fee of $130 for a late translation was received on 21 April 2005, and a fee of $130 was charged to applicant on 22 November 2005, albeit for a late oath or declaration instead of for a late translation. The fact that the fee of $130 was given the wrong fee code by the DO/EO should not be held against the applicant, nor should the fact that $65 of the fee was mistakenly refunded by the DO/EO. The Notification of Missing Requirements did not set forth the requirement for the payment of additional claim fees of $780 as a Small Entity, including a multiple dependent claim fee. Hence, the evidence of record is that prior to the mailing of the Notification of Defective Response on 12 January 2006, the applicant had filed a complete response to the Notification of Missing Requirements mailed on 28 February 2005. Consequently, the notification on 12 January 2006 indicating that the requirements set forth in the Notification of Missing Requirements had not been completed was in error. Moreover, the notification on 12 January 2006 set forth a new requirement, namely the payment of additional claim fees of $780, without giving the applicant adequate opportunity in which to respond. Accordingly, the Notification of Defective Response (PCT/DO/EO/916) mailed 12 January 2006 is hereby **VACATED**.

Applicant needs to furnish an additional claim fee of $805. (The Notification of Defective Response overlooked one additional claim.) In addition, the applicant needs to resubmit the $65 of the processing fee for a late translation that was mistakenly returned to the applicant. Hence, the total fee required for this application is **$870** for a Small Entity. **The applicant is hereby required to submit the $870 fee within TWO (2) MONTHS from the date of this notice**. This period for response may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

CONCLUSION

The Notification of Defective Response (PCT/DO/EO/916) mailed 12 January 2006 is **VACATED**.

The applicant is required to submit the **$870** fee within **TWO (2) MONTHS** from the date of this notice. This period for response may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

The application has an International Filing Date under 35 U.S.C. 363 of 01 October 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 21 April 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) to await a response. Failure to properly respond will result in abandonment.

A copy of this notice **MUST** be returned with the response.

John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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17 JUN 2007

DEFILLO & ASSOCIATES, INC.
P.O. Box 14104
Clearwater FL 33766

In re Application of	:	DECISION ON
Rico Novella et al	:	
Application No.: 10/501,211	:	
PCT No.: PCT/ES02/00008	:	
Int. Filing Date: 01 October 2003	:	PETITION UNDER
Priority Date: 15 January 2002	:	
Attorney Docket No.: 600.004	:	
For: METHOD OF SENDING AND	:	
VALIDATING DOCUMENTS	:	37 CFR 1.181

This decision is in response to applicants' "REQUEST FOR REINSTATEMENT" filed on 21 May 2007, requesting the withdrawal of the Notice of Abandonment because the fee were timely filed as evidenced by the stamped postcard receipt.

BACKGROUND

In a communication from this Office on 21 June 2006, the communication stated that the "Notification of Response" mailed 12 January 2006 was vacated and that applicant was required to submit a $870.00 fee within two months (2) from the date of the this notice. However, the period for response may be extended by filing a petition for extension of time under the provisions of 37 CFR 1.136(a).

On 18 December 2006, applicant filed a status of inquiry and a new power of attorney.

On 05 December 2007, the Office responded to the status inquiry, which stated a that a response to the "Notice Fee Due" mailed on 21 June 2006 was not of record in the application filed.

On 08 January 2007, the UPSTO mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that the applicant has failed to respond to the "Notification of Missing Requirements" mailed 28 February 2005 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 08 January 2007, applicants submitted on 21 May 2007 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 23 October 2006 of the required fees, within the time period of response.

DISCUSSION

Applicants' present petition accompanied by a copy of the following document, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Copy of the Credit Card form ($1,095.00)
(2) Copy of "Notice Fee Due" (2 page)
(3) Copy of Petition for Extension Time (2 month extension of time)

The postcard lists the above items and bears a USPTO date of stamp as 23 October 2006 (21 October 2006 felled on the weekend).

MPEP 503 provides:

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

Applicants' postcard is accepted as *prima facie* that the fees were timely deposited with the U.S. Patent and Trademark Office on 23 October 2006.

Accordingly, the date of receipt for the fees is October 23, 2006.

CONCLUSION

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

The NOTICE OF ABANDONMENT, mailed 08 January 2007 has been **VACATED**.

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Kazunobu Sakai et al :
Application No. 10/501,218 : ON PETITION
Filed: July 12, 2004 :
Attorney Docket No. 2004 0916A

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

19 MAY 2005
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DYKEMA GOSSETT PLLC
Franklin Square, Third Floor West
1300 I Street, NW
Washington, DC 20005

In re Application of:	:	
RASMUSSEN, Steen, Barbrand	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/501,224	:	37 CFR 1.47(b)
PCT No.: PCT/DK03/00011	:	
International Filing Date: 09 January 2003	:	
Priority Date: 10 January 2002	:	
Attorney's Docket No.: 66722-057-7	:	
For: PIEZO ELECTRIC PUMP AND DEVICE WITH SUCH PUMP	:	

This decision is issued in response to the "Petition Under 37 CFR 1.47(b)" filed 11 April 2005. Deposit Account No. 04-2223 will be charged the required petition fee.

BACKGROUND

On 09 January 2003, applicant filed international application PCT/DK03/00011 which claimed a priority date of 10 January 2002 and which designated the United States. On 17 July 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., 12 July 2004 (10 July 2004 was a Saturday).

On 12 July 2004, petitioner filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 21 January 2005, 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 acceptable under 37 CFR 1.497, the surcharge for filing the declaration later than thirty months after the priority date, and additional claims fees (or an amendment eliminating the multiple dependent claims) were required.

On 11 April 2005, petitioner filed a response to the Notification Of Missing Requirements (with required extension fee). The response included a preliminary amendment to remove the multiple dependent claims, the surcharge for filing the declaration later than thirty months after the priority date, and the petition under 37 CFR 1.47(b) considered herein. The petition seeks acceptance of the application without the signature of the sole inventor, whom petitioner states has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17; (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 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 present petition satisfies items (1), (2), and (3).

Regarding item (1), petitioner has authorized a charge to Deposit Account No. 04-2223 for the required petition fee. Based on this authorization, item (1) is satisfied.

In order to satisfy item (2), section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application papers, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, petitioner has provided a firsthand statement from Mikael T. Christensen, with accompanying exhibits, demonstrating that copies of the complete application papers have been provided to the nonsigning inventor. In addition, petitioner has provided a copy of a facsimile transmission from the nonsigning inventor to counsel herein in which the inventor confirms his refusal to execute the application. Based on this submission, item (2) is considered satisfied.

Regarding item (3), the petition includes an express statement of the last known address of the nonsigning inventor. Item (3) is satisfied.

Regarding item (4), the petition was not accompanied by an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor. Item (4) is therefore not satisfied.

Regarding item (5), section 409.03(f) of the MPEP states the following:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that: (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Petitioner here has not provided evidence that the 37 CFR 1.47(b) applicant falls into any of the above categories. Such evidence must be provided, in the form described in section 409.03(f) of the MPEP, before item (5) can be considered satisfied.

Regarding item (6), petitioner has not made the express statement that granting of the present petition is necessary to preserve the rights of the parties or to prevent irreparable damages. Item (6) is therefore not satisfied.

Based on the above, petitioner has failed to satisfy all the requirements for a grantable petition.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)" and must include the materials required to satisfy items (4), (5), and (6) of a grantable petition, as discussed above and in the applicable sections of the MPEP.

Failure to provide a proper and timely response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.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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28 JUL 2005

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In re Application of:	:	
RASMUSSEN, Steen, Barbrand	:	DECISION ON RENEWED
U.S. Application No.: 10/501,224	:	PETITION UNDER
PCT No.: PCT/DK03/00011	:	37 CFR 1.47(b)
International Filing Date: 09 January 2003	:	
Priority Date: 10 January 2002	:	
Attorney's Docket No.: 66722-057-7	:	
For: PIEZO ELECTRIC PUMP AND DEVICE WITH SUCH PUMP	:	

In a decision mailed by this Office on 19 May 2005, the petition under 37 CFR 1.47(b) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted: (1) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (2) an adequate showing that the 37 CFR 1.47(b) applicant has a proprietary interest in the present application; and (3) a statement that granting the petition is necessary to preserve the rights of the parties or to prevent irreparable damage.

On 18 July 2005, petitioner filed the renewed petition considered herein. The renewed petition includes a declaration executed on behalf of the nonsigning inventor by "Niels Jacobsen, Chairman of the Board." The renewed petition states that Mr. Jacobsen is Chairman of the Board of Interacoustics A/S Assens, the 37 CFR 1.47(b) applicant ("Interacoustics"). This declaration satisfies the oath or declaration requirement of a grantable petition under 37 CFR 1.47(b).

The petition also includes a statement from counsel that the granting of this petition is necessary to preserve the rights of the parties or prevent irreparable damage, satisfying this requirement.

With respect to petitioner's proprietary interest in the application, petitioner has submitted a document entitled "Legal 0pinion – Ownership of IPR created by Mr. Steen B. Rasmussen during employment in the William Demant Holding Group" executed by Troels Libak Stollberg, identified as Vice President, Legal Affairs for William Demant Holding A/S ("WDH").[1] The Legal Opinion does not reference a specific assignment of the application by the inventor, and it states that the inventor's employment agreement did not specifically address intellectual property rights; nonetheless, the Legal Opinion concludes that under the applicable Danish law, Interacoustics is the owner of the present application and the underlying invention.

[1] The Legal Opinion identifies WDH as the parent corporation of 37 CFR 1.478(b) applicant Interacoustics.

BEST AVAILABLE COPY

Section 409.03(f) states the following concerning situations like the present case:

> 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.

The Legal Opinion submitted by petitioner here does not satisfy the MPEP requirements set forth above. For example, the Legal Opinion is based on the presumed fact that the nonsigning inventor made the present invention during the course of his duties with Rhinometrics A/S; however, no firsthand evidence is presented to support this assertion (it is not clear that the attorney submitting the document has the required firsthand knowledge, and no supporting affidavits or declarations have been provided). Similarly, the Legal Opinion asserts that the inventor "accepted to let some of his inventions be patented in the name of [Interacoustics]" without providing evidentiary support for this assertion. In addition, the Legal Opinion is based on a foreign statute (the Danish Employee Interventions Act) and a decision of a Danish court; however, English language translations of this statute and decision have not been made of record.

Based on the above, the present submission is insufficient to demonstrate that Interacoustics' has the required proprietary interest in the present application. Accordingly, the final element of a grantable petition under 37 CFR 1.47(b) is not satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(b)" and the additional materials required to bring the present assertion of proprietary interest into compliance with the requirements of the MPEP, as discussed above.

Failure to provide a proper and timely response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

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

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09 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:	:	
RASMUSSEN, Steen, Barbrand	:	DECISION ON SECOND
U.S. Application No.: 10/501,224	:	RENEWED PETITION UNDER
PCT No.: PCT/DK03/00011	:	37 CFR 1.47(b)
International Filing Date: 09 January 2003	:	
Priority Date: 10 January 2002	:	
Attorney's Docket No.: 66722-057-7	:	
For: PIEZO ELECTRIC PUMP AND DEVICE WITH SUCH PUMP	:	

In decisions mailed by this Office on 19 May 2005 and 28 July 2005, petitioner's petition under 37 CFR 1.47(b) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. The remaining requirement for a grantable petitioner was an adequate showing that the 37 CFR 1.47(b) applicant has a proprietary interest in the present application.

On 25 January 2006, petitioner filed the second renewed petition considered herein (with required extension fee). The second renewed petition includes supplemental materials which, in combination with the previously filed materials, adequately demonstrate that the 37 CFR 1.47(b) applicant Interacoustics A/S Assens (Interacoustics) has the necessary proprietary interest.

The second renewed petition under 37 CFR 1.47(b) is **GRANTED**. The application is accepted without the signature of nonsigning inventor Steen Barbrand RASMUSSEN.

A notice of the acceptance of the application under 37 CFR 1.47(b) will be published in the Official Gazette, and a letter informing the nonsigning inventor of the application will be forwarded to the inventor's last-known address, as set forth in the renewed petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 18 July 2005.

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03 NOV 2004
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Patricia Granahan
Ropes & Gray LLP
One International Place
Boston, MA 02110-2624

In re Application of :
HOF, Robert Patrick :
Application No.: 10/501,250 : DECISION
PCT No.: PCT/NL02/00876 :
Int. Filing Date: 09 December 2002 : ON PETITION UNDER
Priority Date: 27 December 2001 :
Docket No.: ASZD-P01-383 : 37 CFR 1.137(b)
For: PROCESS FOR THE PREPARATION OF :
2-(6-SUBSTITUTED-1,3-DIOXANE-4-YL) :
ACETIC ACID DERIVATIVES :

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 08 July 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

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UNITED STATES DEPARTMENT OF COMMERCE
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Matthias Franz	: DECISION ON REQUEST FOR
Patent Number	: 7609857	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/501,253	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **519** 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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45th Floor
New York NY 10112-4498

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OFFICE OF PETITIONS

In re Application of :
Shunji Murai et al :
Application No. 10/501,260 : DECISION ON PETITION
Filed: May 12, 2005 :
Attorney Docket No. A36314PCT :
USA-071382.0201

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 7, 2007. Accordingly, the date of abandonment of this application is September 8, 2007. A Notice of Abandonment was mailed on October 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to the Office of Data Management for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

22 APR 2005

#7

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Richard D. Harris
GREENBERG TRAURIG LLP
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Chicago, IL 60601

In re Application of	:	DECISION ON
Rochefort et al	:	
PCT No.: PCT/US03/00501	:	
Application No: 10/501,261	:	
Int. Filing Date: 09 January 2003	:	PETITION UNDER
Priority Date: 10 January 2002	:	
Attorney's Docket No.: 57690.010236	:	
For: CORRUGATED HANGING DISPENSER	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR .147" filed on 07 March 2005. The petition fee of 130.00 has been paid by check.

BACKGROUND

On 09 January 2003, applicants filed international application PCT/US03/00501, which claimed priority to an earlier application filed 10 January 2002. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 10 July 2004.

On 09 July 2004, applicants filed a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed oath or declaration accompanied the above the above papers.

On 01 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 07 March 2005, petitioner filed the present petition, a declaration in support of filing on behalf of omitted inventor Mr. Carbonnieres accompanied, inter alia, an executed Declaration without the signature of Mr. Carbonnieres.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1) - (4) under 37 CFR 1.47(a).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h) by check.

Regarding requirement (2), the averments of Ms. Harris are sufficient to support a finding that the nonsigning inventor, Mr. Carbonnieres refuses to sign because a copy of the patent application papers including the Specification, Claims, Drawings, and a Declaration were sent to him. On February 14, 2005 Mr. Harris spoke with Mr. Carbonnieres, and Mr. Carbonnieres acknowledge receipt of the package and confirmed that he would not sign the declaration.

Regarding requirement (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding requirement (4), petitioner has provided a proper executed declaration signed by Mr. Rochefort and Mr. Rhyner on their behalf and on the behalf of the nonsigning joint inventor Christophe Carbonnieres.

Petitioner has satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

DECISION

The 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 (DO/EO/US) for continued processing to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The 35 USC 371 date of this application is **07 March 2005.**

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22 APR 2005

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Christophe DE CARBONNIERES
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Naperville, Illinois 60540

In re Application of
Rochefort et al
PCT No.: PCT/US03/00501
Application No: 10/501,261
Int. Filing Date: 09 January 2003
Priority Date: 10 January 2002
Attorney's Docket No.: 57690.010236
For: CORRUGATED HANGING DISPENSER

Dear Mr. De Carbonnieres:

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.

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Richard D. Harris
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APR 10 2009

OFFICE OF PETITIONS

In re Application of

Akiba, et al.

Application No. 10/501,265

Filed: July 9, 2004

Attorney Docket No. Q73735

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 16, 2009.

The petition is **dismissed**.

This application was held abandoned July 24, 2008, after no reply was received to the non-final Office action mailed April 23, 2008. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 24, 2008. A Notice of Abandonment was mailed January 16, 2009. The instant petition was filed on March 16, 2009. Petitioner maintains that the notice of April 23, 2008, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not made the required statements, i.e., a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO and a statement that establishes that the docketing system is sufficiently reliable. The petition is dismissed accordingly. The renewed petition must be accompanied by the required statements as indicated above.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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
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SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of

Akiba, et al.

Application No. 10/501,265

Filed: July 9, 2004

Attorney Docket No. Q73735

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 16, 2009.

The decision mailed April 10, 2009 is **vacated.**

The petition is **granted**.

This application was held abandoned July 24, 2008, after no reply was received to the non-final Office action mailed April 23, 2008. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 24, 2008. A Notice of Abandonment was mailed January 16, 2009. The instant petition was filed on March 16, 2009. Petitioner maintains that the notice of April 23, 2008, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1700, GAU 1792 for further processing that will include remailing the non-final Office action and resetting of the period for reply.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

22 JUN 2006

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WILLIAM B. PATTERSON
Moser, Patterson & Sheridan, L.L.P.
3040 Post Oak Boulevard, Suite 1500
Houston, Texas 77056

In re Application of	:	DECISION ON
ROBERTSSON et al	:	
Application No.: 10/501,271	:	
PCT No.: PCT/GB03/00052	:	
Int. Filing Date: 09 Janaury2003	:	PETITION UNDER
Priority Date: 11 January 2002	:	
Attorney's Docket No.: WGEC0037	:	
For: Method of and Apparatus for Processing	:	
Seismic Data	:	37 CFR 1.181

This Decision is in response to applicants' "PETITION TO WITHDRAW A HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181," filed on 01 May 2006, requesting the acceptance of the executed declaration form as timely filed since the Notification of Defective Response was not received.

BACKGROUND

On 09 January 2003, applicants filed international application PCT/GB03/00052, which claimed priority of an earlier application filed 11 January 2002. A copy of the intentional application was transmitted on 17 July 2003 to the USPTO from the International Bureau. The thirty month (30) time period for paying the basic national fee in the United States of America expired at midnight on 11 July 2004.

On 09 July 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration of the inventors accompanied the transmittal letter.

On 02 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" and that the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The Notice indicated that all of the items set forth above must be submitted must be submitted within two months from date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandon-ment of the national stage application.

On 28 July 2005, applicants filed an executed declaration but it was missing the signature of one of the inventors.

On 16 August 2005, the USPTO mailed a NOTIFICATIO OF DEFECTIVE RESPONSE (PCT/DO/EO/916) indicating that the signature of the first inventor Johan Olof Anders Robertsson is missing.

On 18 April 2006, a Notification of Abandonment was mailed to applicants. It stated that the applicant has failed to properly respond to the notification of Missing Requirements (Form PCT/DO/EO/905), mailed 02 June 2005 within the time period set therein.

On 01 May 2006, applicants filed the instant petition accompanied, inter alia, with an executed declaration.

DISCUSSION

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that:

> "The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

A review of the petition reveals that applicants have not complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed and a tickler sheet for 02 June 2005. Tanis's statement and the copy of 10/501,271 docket report by themselves are insufficient to establish failure to receive the Office communication without any further corroborating evidence, e.g., a log showing the mailed received during the time period the office communication would have been received or a tickler sheet for 16 September 2005. In other words, to establish a showing nonreceipt of the Notification of Defective Response would require, at a minimum, a copy of docket showing the entries of all incoming USPTO correspondence received within the time period that the Office action would have been received and a copy of the docket report showing all replies docketed for a date of one month from the mail date of the nonreceived Notice of Defective Response. Accordingly, petitioner has not met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is not appropriate.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application remains ABANDONED.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within TWO (2) MONTHS from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

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

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

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WILLIAM B. PATTERSON
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3040 Post Oak Boulevard, Suite 1500
Houston, Texas 77056

In re Application of	:	DECISION ON RENEWED
ROBERTSSON et al	:	
Application No.: 10/501,271	:	
PCT No.: PCT/GB03/00052	:	
Int. Filing Date: 09 Janaury2003	:	PETITION UNDER
Priority Date: 11 January 2002	:	
Attorney's Docket No.: WGEC0037	:	
For: Method of and Apparatus for Processing	:	
Seismic Data	:	37 CFR 1.181

This decision is responsive to applicants' "Renewed Petition to Withdraw A Holding of Abandonment under Rule 181" filed on 10 August 2006 requesting that the Notification of Abandonment mailed April 18, 2006, be withdrawn because the Notification of Defective Response mailed on August 16, 2005 was never received.

BACKGROUND

In a decision from this Office on 22 June 2006, the petition filed on 01 May 2006 was dismissed. The decision indicated that petitioner had not complied with the requirements set forth in section 711.03(c) because neither a copy of the docket showing the replies docketed for a date of one month from the mail date of the non-received Office action nor the docket entries of September 16, 2005 had been submitted.

On 10 August 2006 petitioner submitted a second renewed petition under 37 CFR 1.181.

DISCUSSION

A review of the second renewed petition reveals that petitioner has now complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed and a tickler sheet from September 12, 2005 to September 22, 2005.

Petitioner has submitted docket entries for all incoming USPTO correspondence received between August 18, 2005 and August 25, 2005, as logged into their system, when the document in question would have been expected to have been received and entered in their system. Petitioner has submitted a tickler for the responses due from September 12, 2005 to September 22, 2005.

Accordingly, petitioner has met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is appropriate.

DECISION

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

The NOTIFICATION OF ABANDONMENT, mailed 29 May 2002 has been **VACATED**.

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 **01 May 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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WESTERNGECO L.L.C.
PO BOX 2469
HOUSTON TX 77252-2469

In re Application of:	:	
Dirk-Jan VAN MANEN et al.	:	DECISION ON REQUEST TO
Application No.: 10/501,271	:	PARTICIPATE IN PATENT
Filed: May 1, 2006	:	PROSECUTION HIGHWAY PILOT
Attorney Docket No.:	:	PROGRAM AND PETITION TO
14.0202-PCT-US	:	MAKE SPECIAL UNDER 37 CFR
For: METHOD OF AND	:	1.102(d)
APPARATUS FOR PROCESSING	:	
SEISMIC DATA	:	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 9, 2007, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in a foreign country;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the foreign application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the foreign application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the Office actions from each of the foreign application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the foreign examiner in the foreign Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot is not grantable as per item (4) above in that examination of the U.S. application has already begun. A non-final rejection was mailed November 15, 2007.

Further, the preliminary amendment filed with the petition will not be entered as it would have unduly interfered with the preparation of the first Office action. See 37 C.F.R. 1.115(b)(2). While the amendment was faxed in Friday, November 9, 2007, the Examiner's search was conducted November 7 and the Office action was submitted as complete at the latest by Tuesday, November 13, with Monday, November 12 being a holiday. Thus no time was available to process the amendment without unduly interfering with the preparation of the action.

No time period for reply to this decision is available since an Office action on the merits has already been mailed.

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Robert Weinhardt
TC3600
Business Practice Specialist

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BRUCE E. LILLING
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P.O. BOX 560
GOLDEN BRIDGE, NY 10526

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OFFICE OF PETITIONS

In re Application of

MOLOKOV, Sergei et al.
Application No. 10/501,279
Filed: July 09, 2004
Attorney Docket No. **456/1**

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 July 16, 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 Bruce E. Lilling on behalf of all attorneys of record who are associated with customer No. 24101. 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 are no outstanding office actions at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SERGEI MOLOKOV**
96 WAINBODY AVENUE SOUTH
COVENTRY, CV3 6BZ
UNITED KINGDOM

cc: **I.P. 21 LTD**
NORWICH RESEARCH PARK
COLNEY
NORWICH, NR4 7UT
UNITED KINGDOM

03 AUG 2004

#3

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Wyeth
Patent Law Department
Five Giralda Farms
Madison, WI 07940

In re Application of :
FLETCHER et al. :
Application No.: 10/501,282 : DECISION ON PETITION
PCT No.: PCT/US02/36123 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 25 November 2002 :
Priority Date: 29 November 2001 :
Attorney Docket No.: AM100780 :
For: ALLOIOCOCCUS OTITDIS OPEN FRAMES (ORFs) ENCODING POLYPEPTIDES ANTIGENS. . . .

The petition to revive under 37 CFR 1.137(b) filed 09 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

However, the declaration filed on 09 July 2004 is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes a duplicate sheets of page 5 of 5. It is unclear if the inventors were presented with only page 5, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 09 July 2004, which is improper. (See MPEP 201.03 on how to correct this matter.)

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

06 AUG 2004

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Wyeth
Patent Law Department
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Madison, WI 07940

In re Application of	:	
FLETCHER et al.	:	
Application No.: 10/501,282	:	DECISION ON PETITION
PCT No.: PCT/US02/36123	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 25 November 2002	:	
Priority Date: 29 November 2001	:	
Attorney Docket No.: AM100780	:	

For: ALLOIOCOCCUS OTITDIS OPEN FRAMES (ORFs) ENCODING POLYPEPTIDES ANTIGENS. . . .

This is an amended[1] decision on applicants' "Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b)" filed 09 July 2004 in the above-captioned application. The petition to revive 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. The 35 U.S.C. 371(c) date is **09 July 2004**.

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

[1]The Decision on Petition under 37 CFR 1.137(b) mailed 03 August 2004 incorrectly indicated that the declarations filed 09 July 2004 were not in an acceptable form. A review of the declarations filed 09 July 2004 reveal that they are in compliance with 37 CFR 1.497(a)-(b) and a Notification of Missing Requirements will not be issued as indicated in the Decision dated 03 August 2004.

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#6

Kevin J. Zilka
ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of MAINETTI	:
Application No.: 10/501,283	:
PCT Application No.: PCT/GB03/00148	: DECISION ON PETITION
Int. Filing Date: 15 January 2003	: UNDER 37 CFR 1.137(b)
Priority Date Claimed: 15 January 2002	:
Attorney Docket No.: UDL1p011	:
For: APPARATUS AND METHOD FOR REMOVING ADHESIVE LABELS FROM GARMENT HANGERS	:

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 07 June 2005 is GRANTED.

BACKGROUND

On 15 January 2003, applicants filed international application PCT/GB03/00148. The international application claims a priority date of 15 January 2002 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 24 July 2003. The deadline to pay the basic national fee was thirty months from the priority date, that is 15 July 2004. The application became abandoned at midnight 15 July 2004 for failure to pay the basic national fee.

On 09 July 2004, applicants filed a transmittal letter for entry into the US national stage under 35 U.S.C. 371, which was accompanied by, inter alia, a copy of the International Application.

On 07 June 2005, 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 petition fee.

DISCUSSION

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

Applicants' 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 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.

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Helen Kwok
Detailee
PCT Legal Administration
Telephone: 571-272-6095
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01 MAR 2005

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#3

GUY YONAY
EITAN, PEARL, LATZER & COHEN ZEDEK, LLP.
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NEW YORK 10020

In re Application of YASSOUR et al.	
Application No.: 10/501,307	
PCT Application No.: PCT/IL02/01045	DECISION ON PETITION
Int. Filing Date: 27 December 2002	UNDER 37 CFR 1.137(b)
Priority Date Claimed: 27 December 2001	
Attorney Docket No.: P-7023-US	
For: HIGH-PERFORMANCE NON-CONTACT SUPPORT PLATFORMS	

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 13 July 2004 is GRANTED.

BACKGROUND

On 27 December 2002, applicants filed international application PCT/IL02/01045. The international application claims a priority date of 27 December 2001 and designates the United States. The deadline to pay the basic national fee was thirty months from the priority date, that is 27 June 2004. The application became abandoned at midnight 27 June 2004 for failure to pay the basic national fee.

On 13 July 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, an unexecuted declaration, 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.

The declaration filed 13 July 2004 has not been executed. Accordingly, the provision of 35 USC 371(c)(4) has not been met.

CONCLUSION

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

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905), requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497 and the surcharge set forth in 37 CFR 1.492(e) are due.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Nathan Newhouse
Detailee
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Telephone: 571-272-6095
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03 SEP 2004

#3

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Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of	:	
WOYZICHOVSKI, Roman	:	
Application No.: 10/501,310	:	DECISION
PCT No.: PCT/EP02/13702	:	
Int. Filing Date: 04 December 2002	:	ON PETITION UNDER
Priority Date: 11 January 2002	:	
Docket No.: 10901/81	:	37 CFR 1.10(c)
For: METHOD FOR INTERPOLATING ...	:	
RELATIVE EACH OTHER	:	

This decision is in response to applicant's "Petition To Correct Filing Date" filed in the United States Patent and Trademark Office on 20 August 2004.

BACKGROUND

On 04 December 2002, applicant filed international application PCT/EP02/13702, which claimed a priority date of 11 January 2002. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 17 July 2003. The thirty month period for paying the basic national fee expired at midnight on 12 July 2004 (11 July 2004 was a Sunday).

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a receipt date of 13 July 2004.

On 20 August 2004, applicant filed the instant "Petition To Correct Filing Date" accompanied by, *inter alia*, a copy of the Express Mail mailing label.

DISCUSSION

In the instant petition, applicant requests that the filing date of application No. 10/501,310 be amended to 12 July 2004. The requirements for a petition to correct a filing date based on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> > (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. The petition was filed promptly. The Express Mail mailing label number was listed on the correspondence. Applicant has provided a copy of the Express Mailing mailing label with the "date-in" listed as 12 July 2004.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the receipt date of the national stage submission to 12 July 2004 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, 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

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Attorney Advisor
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23 FEB 2006

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bradley N. Ruben, PC
463 First Street, Suite 5A
Hoboken, NJ 07030-1859

In re Application of:	:	
YANG, An, X.	:	DECISION ON PETITION
U.S. Application No.: 10/501,314	:	UNDER 37 CFR 1.137(b)
PCT Application No.: PCT/GB03/00222	:	
Int'l Filing Date: 22 January 2003	:	
Priority Date: 23 January 2002	:	
Attorney's Docket No.: 105SR-018	:	
For: LAMPS	:	

The petition to revive under 37 CFR 1.137(b) filed 09 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," in combination with the additional explanatory statements contained herein, satisfy the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted a proper response to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 10 December 2004, that is, an executed declaration in compliance with 37 CFR 1.497, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 February 2006.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
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Facsimile: (571) 273-0459

14 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
TO, Ban Chin :
U.S. Application No.: 10/501,305 :
PCT No.: PCT/EP2004/006613 :
Int. Filing Date: 22 January 2003 :
Priority Date: 23 January 2002 :
Attorney Docket No.: 105SR-019 :
For: LIGHT FITTING :

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

Applicant's "Petition to Revive" filed on 09 February 2006 is treated as a petition under 37 CFR 1.137(b) and hereby **GRANTED** as follows:

Applicant submitted the proper reply which in this case was a declaration in compliance with 37 CFR 1.497(a) and (b). A power of attorney by the assignee was also submitted. The petition fee was paid. Applicant's statement in the petition is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 January 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 09 February 2006.

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

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Office of PCT Legal Administration

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06 JAN 2005

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King of Prussia, PA 19406-0939

In re Application of :
BROMIDGE, et al. : DECISION ON PETITION
Application No.: 10/501,317 :
PCT No.: PCT/GB03/00020 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 07 January 2003 :
Priority Date: 08 January 2002 :
Atty. Docket No.: P32969 :
For: CYCLIC UREA DERIVATIVES WITH 5-HT2C RECEPTOR ACTIVITY :

The petition to revive under 37 CFR 1.137(b) filed 13 July 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 inventors and payment of the appropriate surcharge is required.

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15 JUN 2005

H.4

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ARENT FOX PLLC
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036-5339

In re Application of :
DEL SOLDATO, Piero *et al* :
U.S. Application No.: 10/501,335 :
PCT No.: PCT/EP03/00394 : **DECISION**
Int. Filing Date: 16 January 2003 :
Priority Date: 29 January 2002 :
Attorney Docket No.: 026220-00048 :
For: NEW CORTICOSTEROIDS :

This decision is in response to applicants' "Petition Under 37 C.F.R. §1.47(a)" filed with the United States Designated/Elected Office (DO/EO/US) on 20 May 2005.

BACKGROUND

On 11 April 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 20 May 2005, applicants filed the subject petition which was accompanied by, *inter alia*, a $130.00 petition fee; an affidavit of Maria Teresa Noro; the surcharge fee; a declaration signed by one of the two joint inventors; copies of letters dated 14 February 2005 and 29 March 2005 with English translations; a copy of postal receipts; and authorization to charge any additional fees to Deposit Account No. 01-2300.

DISCUSSION

Petitioners claim that joint inventor Piero Del Soldato "refuses to join in the application" and have submitted a petition under 37 CFR 1.47(a) in response to the Form PCT/DO/EO/905 mailed 11 April 2005. A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the non-signing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to $200.00 on 08 December 2004. Here, petitioners submitted a $130.00 petition fee. The $70.00 difference will be charged to Deposit Account No. 01-2300 as authorized.

With regards to item (3), the 37 CFR 1.47(a) applicant claims that the last known address of Mr. Piero Del Soldato is:

Via Enrico Toti 22
Monza, MI 20052
Italy

Regarding item (4), the 37 CFR 1.47(a) applicant provided a declaration signed by one of the two joint inventors for the nonsigning joint inventor pursuant to section 409.03(a) of the Manual of Patent Examining Procedure (MPEP). The declaration lists the citizenship, residence and mailing address of the two inventors and complies with 37 CFR 1.497(a) and (b). Petitioners also submitted the $65.00 surcharge fee.

Accordingly, items (1), (3), (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), the 37 CFR 1.47(a) petitioner included a declaration by attorney Maria Teresa Noro who explains that the nonsigning inventor has an ongoing legal dispute with Nicox S.A. for his dismissal on 02 April 2004 and his right for additional compensation. Ms. Noro states that she "has been in touch on a frequent basis with Mr. Fabrizio Conte of the Milan Bar, the lawyer who is assisting Mr. Piero Del Soldato."

Ms. Noro claims that a complete copy of the application was sent registered mail to Mr. Del Soldato at his home on 14 February 2005 with a copy "hand delivered" to his attorney, Mr. Conte, for his review. Petitioners provided a copy of this letter along with an English translation. However, these documents were never delivered to Mr. Del Soldato and were returned by postal authorities. Another set of papers were sent to Mr. Del Soldato at the same address on 29 March 2005 with another copy hand-delivered to his lawyer. Ms. Noro claims that these papers were delivered to Mr. Del Soldato but no response has been received.

A careful review of the evidence shows that petitioners have not yet satisfied the requirements of item (2) of 37 CFR 1.47(a). It is not clear that the address listed for Mr. Del Soldato is still good. There is no direct evidence that Mr. Del Soldato received the documents. The postal receipts are in Italian without an accompanying English translation and the postal receipt for the 29 March 2005 documents in which Ms. Noro claims to have been received is not signed by Mr. Del Soldato.

Nevertheless, petitioners would still have satisfied item (2) by showing that Mr. Del Soldato's lawyer received the documents purportedly hand-delivered on 14 February 2005 and 29 March 2005. But petitioners have provided no proof that the documents were received by Mr. Conte. A declaration or affidavit by the courier who hand-delivered these documents would be sufficient, or a response to an email could also suffice.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson
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Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, DC 20036-5339

In re Application of :
DEL SOLDATO, Piero *et al* :
U.S. Application No.: 10/501,335 :
PCT No.: PCT/EP03/00394 : **DECISION**
Int. Filing Date: 16 January 2003 :
Priority Date: 29 January 2002 :
Attorney Docket No.: 026220-00048 :
For: NEW CORTICOSTEROIDS :

This decision is in response to the documents filed via facsimile on 21 June 2005. This is treated as a renewed petition under 37 CFR 1.47(a). No fee is required.

BACKGROUND

On 15 June 2005, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Petitioners failed to meet item (2) of 37 CFR 1.47(a). Petitioners were given two months to respond.

On 21 June 2005, petitioners submitted the instant response which was accompanied by, *inter alia*, copies of the 14 February 2005 and 29 March 2005 cover letters with accompanying English translations sent to the nonsigning inventor and his counsel, Mr. Conte.

DISCUSSION

The prior decision concluded that petitioners failed to satisfy item (2) of 37 CFR 1.47(a) with regards to showing that a complete copy of the application and declaration were received by Mr. Piero Del Soldato, or his attorney. In the renewed petition, petitioners argue that the signatures at the bottom of each of the cover letters indicate that these letters were received by Mr. Conte. A review of the letters show that next to each signature is the word *ricevcuta* which means "received" in Italian and a date. Petitioners explanation is accepted.

Accordingly, petitioners have shown that the documents including a complete copy of the above-captioned application was received by the attorney of the nonsigning inventor on 15 February 2005 and 29 March 2005.

The cover letters requested that Mr. Del Soldato respond with an executed declaration within 15 days. Petitioners claim that no response has been received. This

conduct is sufficient to show a refusal pursuant to section 409.03(d) of the MPEP. Item (2) of 37 CFR 1.47(a) is now satisfied.

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

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 January 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 20 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.

James Thomson
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Office of PCT Legal Administration

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ARENT FOX KINTNER PLOTKIN & KAHN
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WASHINGTON DC 20036

In re Application of	:	
BRU MARTINEZ et al.	:	
Application No.: 10/501,339	:	DECISION ON
PCT No.: PCT/ES03/00026	:	
Int. Filing Date: 21 January 2003	:	PETITION UNDER
Priority Date: 24 January 2002	:	
Attorney Docket No.: 977777-11552	:	37 CFR 1.137(b)
For: METHOD FOR THE PRODUCTION OF RESVERATROL IN CELL CULTURES	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 12 November 2004.

BACKGROUND

On 21 January 2003, applicant filed international application PCT/ES03/00026 which designated the U.S. and claimed a priority date of 24 January 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 31 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 July 2004 (24 July 2004 being a Saturday).

On 23 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States but the U.S. Basic National Fee was not included.

On 19 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to pay the U.S. Basic National Fee by thirty months from the priority date.

On 12 November 2004, applicants submitted the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

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

As to item (1), applicants submitted the U.S. Basic National Fee on 12 November 2004.

As to item (2), the petition fee was paid on 12 November 2004.

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

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

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

Daniel Stemmer
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PCT Legal Affairs
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Legal Administration
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Paper No.

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

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,592,477	:	DECISION ON REQUEST
Swinnen et al.	:	FOR
Issue Date: September 22, 2009	:	RECONSIDERATION OF
Application No. 10/501,344	:	PATENT TERM ADJUSTMENT
Filed: January 26, 2005	:	and
Atty Docket No. 255452US0PCT	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 20, 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 nine hundred and twenty-two (922) 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 nine hundred and twenty-three (923) days is **GRANTED to the extent indicated herein.**

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

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 July 30, 2007[1] (not July 29, 2007) and ends on February

[1] This is an international application for which the B delay is calculated based on the date of national stage commencement. See 1.702(b). The

3, 2009, the day before the RCE was filed (not February 4, 2009, the day on which the RCE was filed), which amounts to 555 (not 554) days. See U.S.C. 154(b)(1)(B)(i). Considering the agreed period of overlap of 110 days, the patent term adjustment is increased by 445 days to 923, not 922 days.

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

The application is being forwarded to the Certificates of 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 **nine hundred and twenty-three (923) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

priority date of this application is January 29, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on July 29, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,477 B2

DATED : **September 22, 2009** **DRAFT**

INVENTOR(S) : Swinnen 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 478 days

Delete the phrase "by 478 days" and insert – by 923 days--

24 AUG 2004

#3

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William J. Schramm
Reising, Ethingon, et al.
P.O. Box 4390
Troy, Michigan 48099-43900

In re Application of	:	
ELSAESSER, Robert	:	
Application No.: 10/501,352	:	DECISION ON PETITION
PCT No.: PCT/CH02/00019	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 11 January 2002	:	
Priority Date: None	:	
Attorney Docket No.: 7396.3004.001	:	
For: RESEALABLE PACKAGING BAG	:	

The petition to revive under 37 CFR 1.137(b) filed 14 July 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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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MALLINCKRODT INC.
675 MCDONNELL BOULEVARD
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ST. LOUIS, MO 63134

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Enrico Anthony Antonini :
Application No. 10/501,353 : ON PETITION
Filed: July 14, 2004 :
Attorney Docket No. 1580 WO/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 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 August 17, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1625 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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FOLEY & LARDNER LLP
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MILWAUKEE WI 53202-5306

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
Robert L. Hancock et al :
Application No. 10/501,372 :
Filed: July 14, 2004 :
Attorney Docket No. 026032-4722 :

ON PETITION

This is a decision on the petition, filed January 24, 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 29, 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 2837 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).

07 JAN 2005

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AKC Patents
215 Grove Street
Newton, MA 02466

In re Application of	:	
Pairis et al.	:	
Application No. 10/501,376	:	
PCT No.: PCT/GR03/00001	:	
Int. Filing Date: 15 January 2003	:	DECISION
Priority Date: 16 January 2002	:	
Atty. Docket No.: PAUS1	:	
For: Plastic Closing Cap With Sealing Ring	:	

This is in response to the papers filed on 14 July 2004, which are being treated under 37 C.F.R. 1.42.

BACKGROUND

This international application was filed on 15 January 2003, claimed an earliest priority date of 16 January 2002, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 24 July 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 July 2004. Applicants filed, *inter alia*, the basic national fee on 14 July 2004.

DISCUSSION

Review of the declaration of the inventors filed on 14 July 2004 reveals that it indicates that sole inventor Dimitrios Pairis is deceased. However, further review of the application file reveals that an executed declaration of the inventor was filed with the PCT Request form, pursuant to PCT Rule 4.17(iv). This declaration is in compliance with 37 CFR 1.497(a) and (b). Therefore, it is not necessary to consider the declaration filed on 14 July 2004.

CONCLUSION

The application is **ACCEPTED** for entry into the U.S. National Stage.

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 **14 July 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

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APR 0 8 2008

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

In re Application of	:	
Jensen-Jarolin	:	Decision on Petition
Serial No.: 10/501,402	:	
Filed : 3 January 2005	:	
Attorney Docket No.: 37488.00400US	:	

This letter is in response to the Renewed Petition under 37 C.F.R. 1.144 and 1.181 filed on 21 March 2008 requesting reconsideration of the restriction requirement dated 17 May 2007.

BACKGROUND

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

On 17 May 2007, the examiner required a restriction between Groups I and II and an election of species among antacids, H2-receptor and proton pump inhibitors.

On 18 June 2007 applicants elected Group I and the species of antacids.

On 21 December 2007, the examiner considered the traversal and made the election of species FINAL. Claims 11-16, 21-22 and 30-31 were rejected under 35 USC 102(e) as being anticipated by Vande-Velde. Claims 23-25 were rejected under 35 USC 103(a) as being unpatentable over Vande-Velda in view of Martin. Claims 23 and 26-29 were rejected under 35 USC 103(a) as being unpatentable over Vande-Velda in view of Kricek.

On 21 March 2008, applicants filed this petition.

DISCUSSION

The file history and petition have been considered carefully.

The restriction required between Group I and Group II is not at issue at this time because applicants have provided no reasons traversing the restriction between Group I and II.

PCT Rules 13.2 states that:

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

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

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

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

Applicants argue that the species have unity of invention because they have a common property or activity, in this case, a gastric acid reducing substance, and because they all belong to a recognized class of chemical compounds in the art to which the invention pertains.

This is not persuasive. The fact that the claim recites these items as a listing of individuals in the alternative without using a single generic term or phrase to encompass them all, demonstrates that there is no art recognized grouping for the collection of "antacids, H2-receptors and proton pump inhibitors."

Moreover, PCT Rule 13.2 requires that for unity of invention, the species must share a special technical feature which makes as contribution over the prior art. Chapter 10 of the ISPE Guidelines makes it clear that the contribution must be both in terms of novelty, which corresponds to anticipation under US practice, and inventive step, which corresponds to unobviousness under US practice. The rejection under 35 USC 102(e) set forth in the first Office action on the merits are evidence that the invention is anticipated by the prior art. The rejections made under 35 USC 103(a) are evidence that the invention is obvious in view of the prior art.

Furthermore, MPEP 803.02 only requires an examiner to move on to the examination of a second and subsequent species when the elected species is in condition for allowance. See this portion of MPEP 803.02:

> ...If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration. A second action on the rejected claims can be made final unless 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). See MPEP § 706.07(a).

At present, claims directed to the elected species are found unpatentable in view of a 35 USC 102 rejection. As such, the elected species does not make a contribution over the prior art and the examiner is not obliged to extend search and examination to a second or subsequent species.

DECISION

The petition filed under 37 CFR 1.144 and 1.181 on 21 March 2008 is **DENIED**.

The application will be forwarded to the examiner to consider the papers filed 21 March 2008 and to prepare an Office action consistent with this petition decision.

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

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

John LeGuyader
Director, Technology Center 1600

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of
Jacobus Adriaan Wessels et al.
Application No. 10/501,404
Filed: July 15, 2004
Attorney Docket No. **P08323US00/BAS**

DECISION ON PETITION

This is a decision on the petition filed June 13, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is GRANTED.

The above-referenced application was held abandoned on February 6, 2007, for failure to file a timely response to the non-Final Office Action mailed January 5, 2007 which set the longer of one month or 30 days for reply. Accordingly, a Notice of Abandonment was mailed June 5, 2007.

Petitioner argues that the period for response with a 5 month extension of time does not lapse until July 5, 2007.

Under the provisions of 37 CFR 1.136(a), an extension of time up to five months could be obtained making the response due date not later than July 5, 2007 as claimed by petitioner. As the period for extensions had not expired, the application is not abandoned and the Notice of Abandonment was mailed prematurely.

In view thereof, and in accordance with the authorization to charge petitioner's deposit account filed June 19, 2007 with the response in the form of an Election, $1080.00 has been charged to petitioner's credit card for a five month extension of time to make the filing of the response timely filed.

The Notice of Abandonment was sent in error and is hereby withdrawn. No fee for the petition to withdraw the holding of abandonment is due and none has been charged.

This application is being forwarded to Technology Center 3754 for review of the response filed June 19, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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CHICAGO IL 60610

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APR 17 2008

In re Application of	:	
SCHULER, et al.	:	
Application No. 10/501,406	:	DECISION GRANTING PETITION
Filed: January 7, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10808/145**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 16, 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 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2814 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

[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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Paper No.

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INFINEON
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CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Schuler et al.	:	LETTER REGARDING
Application No. 10/501,406	:	PATENT TERM ADJUSTMENT
Filed: January 7, 2005	:	
Atty Docket No. 10808/145	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed on October 24, 2008. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) of 268 days be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The determination of PTA at the time of the mailing of the Notice of Allowance is one hundred sixty-eight (168) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 168 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 24, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is two hundred sixty-eight (268) days. The delay was calculated as 331 days of Office delay and 63 days of applicant

delay. The instant request for review of patent term adjustment was timely filed.[1]

Applicants state that the PTA calculation appears to be longer than expected. Applicants state no specific basis for the request for review of the calculation of patent term adjustment.

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

On December 26, 2007, a notice of allowance was mailed. On March 24, 2008, the issue fee was paid. On April 16, 2008, after payment of the issue fee on March 24, 2008, a request for continued examination was filed, along with a petition to withdraw the application from issue and a supplemental information disclosure statement (IDS). The IDS did not include the statement under 37 CFR 1.704(d). On July 24, 2008, 100 days after the filing of the supplemental IDS, a new notice of allowability in response to the supplemental IDS was mailed.

Pursuant to 37 CFR 1.704(c)(10), a period of reduction of 100 days will be entered.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred sixty-eight (168) days** (331 days of PTO delay, reduced by 163 (63+100) days of Applicant delay).

---

[1] PALM records indicate that the issue fee was paid on October 24, 2008.

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

PTA Calculations for Application: 10/501406			
Application Filing Date:	01/07/2005	PTO Delay (PTO):	331
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	63
Post-Issue Petitions:	0	Total PTA (days):	168
PTO Delay Adjustment:	-100		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	02/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		100	
81	07/24/2008	MAIL NOTICE OF ALLOWANCE			
80	06/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	06/25/2008	ISSUE REVISION COMPLETED			
78	06/25/2008	DOCUMENT VERIFICATION			
77	06/20/2008	NOTICE OF ALLOWABILITY			
76	04/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
75	04/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	04/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
73	04/16/2008	REFERENCE CAPTURE ON IDS			
72	04/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	04/21/2008	DATE FORWARDED TO EXAMINER			
70	04/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
69	04/21/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
68	04/18/2008	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
67	04/17/2008	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
66	04/17/2008	WITHDRAWAL PATENT CASE FROM ISSUE			
65	04/16/2008	PETITION ENTERED			

64	04/17/2008	WITHDRAWAL PATENT CASE FROM ISSUE			
63	04/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	04/16/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
61	04/16/2008	ISSUE NOTIFICATION MAILED			
60	05/06/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
59	03/28/2008	EXPORT TO FINAL DATA CAPTURE			
58	03/27/2008	DISPATCH TO FDC			
57	03/26/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
56	03/24/2008	ISSUE FEE PAYMENT VERIFIED			
55	03/24/2008	ISSUE FEE PAYMENT RECEIVED			
54	02/14/2008	FINISHED INITIAL DATA CAPTURE			
53	12/24/2007	EXPORT TO INITIAL DATA CAPTURE			
52	12/26/2007	MAIL EXAMINER'S AMENDMENT			
51	12/26/2007	MAIL NOTICE OF ALLOWANCE			
50	12/21/2007	ISSUE REVISION COMPLETED			
49	12/21/2007	DOCUMENT VERIFICATION			
47	12/21/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	12/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
45	12/14/2007	EXAMINER'S AMENDMENT COMMUNICATION			
44	12/14/2007	NOTICE OF ALLOWABILITY			
40	12/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
39	10/05/2007	DATE FORWARDED TO EXAMINER			
38	10/01/2007	RESPONSE AFTER NON-FINAL ACTION		63	34
37	10/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	04/30/2007	MAIL NON-FINAL REJECTION			
33	04/27/2007	NON-FINAL REJECTION			
32	04/10/2007	DATE FORWARDED TO EXAMINER			
31	04/02/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
30	04/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	02/01/2007	MAIL RESTRICTION REQUIREMENT	331		-1
28	01/29/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
27	03/30/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			

26	03/29/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
25	08/22/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
24	08/22/2005	MISCELLANEOUS INCOMING LETTER			
23	04/18/2005	PRELIMINARY AMENDMENT			
22	04/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	03/29/2005	MAIL NON-COMPLIANT PRELIMINARY AMENDMENT			
20	03/24/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	03/24/2005	NON-COMPLIANT PRELIMINARY AMENDMENT			
17	01/07/2005	REFERENCE CAPTURE ON IDS			
13	03/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	03/01/2005	CLEARED BY OIPE CSR			
11	03/01/2005	CLEARED BY OIPE CSR			
10	03/01/2005	CLEARED BY OIPE CSR			
9	03/01/2005	CLEARED BY OIPE CSR			
8	01/07/2005	371 COMPLETION DATE			
7	02/17/2005	APPLICATION DISPATCHED FROM OIPE			
6	02/17/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	01/07/2005	ADDITIONAL APPLICATION FILING FEES			
4	01/07/2005	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

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#5

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Patent Department
BAYER CROPSCIENCE LP
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741

In re Application of:
MAURER, Fritz, et al.
U.S. Application No.: 10/501,414
PCT No.: PCT/EP03/00058
Int'l Filing Date: 07 January 2003
Priority Date: 17 January 2002
Attorney's Docket No.: CS-8270/LeA 35,855
For: SUBSTITUTED PYRAZOLINES FOR USE AS PESTICIDES

DECISION ON SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to applicants' submission on 09 December 2004 of a declaration executed on behalf of deceased inventor Christoph Erdelen by his heir Angelika Lubos-Erdelen, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 07 January 2003, applicants filed international application PCT/EP03/00058 which designated the United States and claimed a priority date of 17 January 2002. On 24 July 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., 17 July 2004.

On 12 July 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 07 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 09 December 2004, applicants filed a response to the Notification Of Missing Requirements. The response included an authorization to charge Deposit Account No. 50-2510 for the required surcharge and an inventors' declaration executed by the three surviving inventors and on behalf of deceased inventor Christoph Erdelen by his heir Angelika Lubos-Erdelen. The declaration is considered herein under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 states in part:

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

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

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

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for both the deceased inventor and the legal representative.

Here, the declaration filed 09 December 2004 specifically identifies Angelika Lubos-Erdelen as the "heiress" of the deceased inventor, and it includes separate citizenship, mailing address, and residence information for the deceased inventor and the heiress. The accompanying submission expressly states that Angelika Lubos-Erdelen is the "sole heir" of the deceased inventor. Accordingly, the declaration complies with the requirements of 37 CFR 1.42 and 1.497(b)(2) with respect to the signature provided on behalf of the deceased inventor.

It is noted that the submission of a declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect, applicant is required to promptly notify this Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Christoph Erdelen is **GRANTED**.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 December 2004.

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

28 SEP 2004

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In re Application of
WHITLOCK, David R.
U.S. Application No.: 10/501,415
PCT No.: PCT/US03/00995
Int. Filing Date: 13 January 2003
Priority Date: 11 January 2002
Attorney Docket No.: D0460-7011US
For: COMPOSITIONS INCLUDING AMMONIA OXIDIZING BACTERIA AND METHODS OF USING SAME

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

Applicant's "Petition for Revival Under 37 C.F.R. § 1.137(b)" filed on 09 September 2004 is hereby **GRANTED** as follows:

Applicant paid the reduced basic national fee of $50.00 with the instant petition. However, the above-captioned application is not entitled to this reduced fee as an international preliminary examination report has not yet been completed for PCT/US03/00995. Hence, the correct basic national fee is $365.00.

The $315.00 difference has been charged to Deposit Account No. 50-2762 as authorized.

The petition fee of $1,330.00 has been paid. Applicant states that "the failure to provide the full U.S. Basic National Fee was unintentional, as applicant's representative neglected to authorize its deposit account be charged." This statement has been interpreted as meaning that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this interpretation is not correct, applicant should notify this 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 surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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OFFICE OF PETITIONS

Applicant: Whitlock
Appl. No.: 10/501,415
Filing Date: July 9, 2004
Title: COMPOSITIONS INCLUDING AMMONIA OXIDIZING BACTERIA AND METHODS OF USING SAME
Attorney Docket No.: D0460-7011US
Pub. No.: US 2005/0106126 A1
Pub. Date: May 19, 2005

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

The request is granted.

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

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

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OFFICE OF PETITIONS

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P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
Hendricks	:	
Application No. 10/501,422	:	DECISION
Filing Date: 13 July, 2004	:	
Attorney Docket No.: NL 020534	:	

This is a decision on the petition filed on 19 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 October, 2005, with reply due absent extension of time on or before 4 January, 2006;
- the instant application went abandoned after midnight 4 January, 2006;
- the Office mailed a Notice of Abandonment on 24 April, 2006;

- on 19 June, 2006, Petitioner filed the instant petition (with fee), an amendment as the reply, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

[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).

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

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

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] 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).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] 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.[8]))

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[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 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.

[4] 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).

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

[6] 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.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

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

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulations at 37 C.F.R. §1.137(b).

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to the Examiner in Technology Center 2800 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

In re Application of Hekstra et al. :
Application No. 10/501,424 : Decision on Petition
Filing Date: July 13, 2004 :
Attorney Docket No. NL 020034 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2009, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on September 28, 2007. The Office action set a three-month shortened statutory period for reply. Neither a reply nor a request for an extension of time was filed in response to the September 28, 2007 Office action. As a result, the application became abandoned on December 29, 2007. The Office mailed a Notice of Abandonment on April 10, 2008.

Papers filed April 28, 2008, revoked prior powers of attorney, gave power of attorney to the practitioners associated with Customer No. 65913, and changed the address of record to the address associated with Customer No. 65913.

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

As to item (1), a reply to the September 28, 2007 Office action accompanies the petition.

As to item (2), petitioner has submitted the petition fee of $1,620.

As to item (3), the petition states 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 petition is signed by Thomas Ham was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Ham may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Ham that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

As to item (4), a terminal disclaimer is not necessary in the instant case.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 2621 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Thomas H. Ham
Wilson & Ham
PMB: 348
2530 Berryessa Road
San Jose, CA 95132

[1] *See* Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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OFFICE OF PETITIONS

In re Application of :
Benno Tieke, et al. :
Application No. 10/501,429 : ON PETITION
Filed: July 13, 2004 :
Attorney Docket No. NL 030043 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed August 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before August 4, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 2, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 5, 2008. A Notice of Abandonment was subsequently mailed on August 19, 2008.

Petitioner request that the application be revived for consideration of a Request for Continued Examination (RCE) under 37 CFR 1.114. However, in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply under 37 CFR 1.137(b) must be the payment of the issue fee or any outstanding balance thereof. Accordingly, the issue fees payment of $1740 is being charged to counsel's deposit account as authorized.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above-identified application is again allowed, petitioner may request that the issue fee paid on August 12, 2008, be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 2627 for further processing of the request for continued examination under 37 CFR 1.114 filed August 12, 2008.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Roger Pitt
Kirkpatrick, Lockhart, Preston,
Gates, Ellis, LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111

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OFFICE OF PETITIONS

In re Application of :
Andras Bertha :
Application No. 10/501,438 : DECISION ON PETITION
Filed: July 13, 2004 : TO WITHDRAW
Attorney Docket No. INTEL 1150-1 : 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 May 1, 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 Roger Pitt and all attorneys/agents of record has been revoked by the assignee of the patent application on August 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: Foley & Lardner, LLP
P.O. Box 80278
San Diego, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of	:	
Janne Kerovuo, et al.	:	
Application No. 10/501,442	:	DECISION ON PETITION
Filed: October 29, 2005	:	
Attorney Docket No. D2000-1WUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 6, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 6, 2009. Accordingly, the date of abandonment of this application is May 7, 2009. The Notice of Abandonment was mailed July 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

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

Terri Williams
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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VERENIUM CORPORATION
Intellectual Property Department
P.O. Box 910550
SAN DIEGO, CA 92191-0550

Mail Date: 05/03/2010

Applicant	: Janne Kerovuo	: DECISION ON REQUEST FOR
Patent Number	: 7592434	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/501,442	: OF WYETH
Filed	: 10/29/2005	:
		:

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.

18 APR 2005

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Westerman, Hattori, Daniels & Adrian, LLP
Suite 700
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

In re Application of :
JIN et al. :
U.S. Application No. 10/501,452 : DECISION ON PETITION
PCT No.: PCT/JP03/00252 :
Int. Filing Date: 15 January 2003 :
Priority Date: 15 January 2002 :
Attorney Docket No.: 042586 :
For: SOLVENT-SOLUBLE BLOCK COPOLYMERIZATION POLYIMIDE COMPOSITION, AND ITS PRODUCTION PROCESS :

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 11 March 2005 to accept the application without the signature of joint-inventor, Akihito Taniguchi. The petition fee has been submitted.

BACKGROUND

On 15 January 2003, applicants filed international application PCT/JP03/00252 which claimed a priority date of 15 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 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 international filing date, 15 July 2004.

On 14 July 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); international search report; and a translation of the international application.

On 13 September 2004, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 04 November 2004, applicants filed a declaration executed by five of the six joint-inventors.

On 22 November 2004, the United Stated Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed.

On 11 March 2005, applicants filed the present petition under 37 CFR 1.47(a) and three-month extension of time.

DISCUSSION

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

Regarding item (2) above, petitioner states that Akihito Taniguchi has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition and the accompanying papers reveal that 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 Akihito Taniguchi. Mr. Koizumi has provided a declaration outlining the efforts to reach Akihito Taniguchi. However, the statements made with regards to the efforts to reach Mr.Taniguchi constitutes secondhand knowledge, at best, in that the majority of the actions to which applicants are averring to were conducted by Akira Yonezawa and Seibi Inoue. Therefore, petitioner has not provided sufficient proof that the inventor refuses to execute the application.

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 Mr.Taniguchi, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (3) above, petitioner has not provided a clear statement of the last known address of the non-signing inventor. See M.P.E.P. 409.03(e).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Akihito Taniguchi under 37 CFR 1.47(a) at this time:

CONCLUSION

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

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

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

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

#10

28 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Westerman, Hattori, Daniels & Adrian, LLP
Suite 700
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

In re Application of :
JIN et al. :
U.S. Application No. 10/501,452 : DECISION ON PETITION
PCT No.: PCT/JP03/00252 :
Int. Filing Date: 15 January 2003 :
Priority Date: 15 January 2002 :
Attorney Docket No.: 042586 :
For: SOLVENT-SOLUBLE BLOCK COPOLYMERIZATION POLYIMIDE COMPOSITION, AND ITS PRODUCTION PROCESS :

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 09 June 2005 to accept the application without the signature of joint-inventor, Akihito Taniguchi. No petition fee is required.

BACKGROUND

On 15 January 2003, applicants filed international application PCT/JP03/00252 which claimed a priority date of 15 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 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 international filing date, 15 July 2004.

On 14 July 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); international search report; and a translation of the international application.

On 13 September 2004, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 04 November 2004, applicants filed a declaration executed by five of the six joint-inventors.

On 22 November 2004, the United Stated Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that an oath or

declaration in compliance with 37 CFR 1.497(a) and (b) must be filed.

On 11 March 2005, applicants filed a petition under 37 CFR 1.47(a). The petition was dismissed without prejudice in a Decision on Petition dated 18 April 2005.

On 09 June 2005, applicants filed "Renewed Petition under 37 CFR 1.47(a)."

DISCUSSION

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

A review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Akihito Taniguchi. The steps taken are sufficient to show that the nonsigning inventor refuses to execute the application.

Regarding item (3) above, petitioner has not provided a clear statement of the last known address of the non-signing inventor. See M.P.E.P. 409.03(e).

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

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

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

Anthony Smith

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Suite 700
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Washington, D.C. 20036

In re Application of :
JIN et al. :
U.S. Application No. 10/501,452 : DECISION ON PETITION
PCT No.: PCT/JP03/00252 :
Int. Filing Date: 15 January 2003 :
Priority Date: 15 January 2002 :
Attorney Docket No.: 042586 :
For: SOLVENT-SOLUBLE BLOCK COPOLYMERIZATION POLYIMIDE COMPOSITION, AND ITS PRODUCTION PROCESS :

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 15 July 2005 to accept the application without the signature of joint-inventor, Akihito Taniguchi. No petition fee is required.

BACKGROUND

On 15 January 2003, applicants filed international application PCT/JP03/00252 which claimed a priority date of 15 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 July 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 international filing date, 15 July 2004.

On 14 July 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); international search report; and a translation of the international application.

On 13 September 2004, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 04 November 2004, applicants filed a declaration executed by five of the six joint-inventors.

On 22 November 2004, the United Stated Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed.

On 11 March 2005, applicants filed a petition under 37 CFR 1.47(a). The petition was dismissed without prejudice in a Decision on Petition dated 18 April 2005.

On 09 June 2005, applicants filed "Renewed Petition under 37 CFR 1.47(a)." The petition was dismissed without prejudice in a Decision on Petition dated 28 June 2005.

On 15 July 2005, applicants filed "Renewed Petition under 37 CFR 1.47(a)."

DISCUSSION

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

Regarding item (3) above, petitioner has provided a clear statement of the last known address of the non-signing inventor.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application will be given an international filing date of 15 January 2003 under 35 U.S.C. 363, and a date of **04 November 2004** under 35 U.S.C. 371(c).

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

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

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

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

26 JUL 2005

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4/12

Akihito Taniguchi
56-13-201
Shimo 2-chome
Kita-ku
Tokyo 115-0042 Japan

In re Application of
JIN et al.
U.S. Application No. 10/501,452
PCT No.: PCT/JP03/00252
Int. Filing Date: 15 January 2003
Priority Date: 15 January 2002
Attorney Docket No.: 042586
For: SOLVENT-SOLUBLE BLOCK COPOLYMERIZATION POLYIMIDE COMPOSITION, AND ITS PRODUCTION PROCESS

Dear Akihito Taniguchi:

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

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

Anthony Smith
Attorney-Advisor
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JUL 06 2007

OFFICE OF PETITIONS

In re Application of

Schultes, et al.

Application No. 10/501,467

Filed: July 14, 2004

Attorney Docket No. 252886USOPCT

DECISION ON PETITION

This is a decision on the petition filed May 21, 2007, which will be treated as a petition under 37 CFR 1.182 to acknowledge a request for express abandonment.

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

A review of the application file reveals that a communication, titled "Express Abandonment under 37 CFR 1.138" was filed on May 15, 2007, requesting that the above-cited application be expressly abandoned in favor of continuing application serial number 11/748,874 filed May 15, 2007. The records as maintained by the USPTO indicate that the subject application was expressly abandoned on May 15, 2007. Prior to the May 15, 2007, the application was in a pending status with a non-final Office action having been mailed on November 15, 2006, and allowing a shortened statutory period for reply of three months from its mailing date. It is noted that applicant obtained a request for an extension of time within the third month on May 15, 2007, and filed a continuing application and the "Express Abandonment under 37 CFR 1.138" expressly abandoning application 10/501,467.

The fee for a petition under 37 CFR 1.182 is $400.00. The amount of $400.00 will be charged to deposit account 15-0030.

No further action will be taken on application 10/501,467.

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

In re application of
Willem Johannes Van Straaten
Application No. 10/501,476
Filed: July 14, 2004
For: TEMPORARY STRUCTURE

: **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(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/slb: 10/12/06

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SUITE 400
MCLEAN VA 22102

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :

HEISS, Herbert :
Application No. 10/501,478 : DECISION ON PETITION
Filed: April 14, 2004 : TO WITHDRAW
Attorney Docket No. **449122075400** : FROM RECORD
:

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

The request is **APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HERBERT HEISS**
LOCHHAUSERSTR. 94 B
PUCCHEIM, GERMANY 82178

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

E I du Pont de Nemours & Company
Legal Patents
Wilmington DE 19898

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MAY 05 2006
OFFICE OF PETITIONS

In re Application of :
Bert C. Wong et al. :
Application No. 10/501,491 : DECISION ON PETIITON
Filed: July 13, 2004 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. AD6843USPCT :
Title: LOW-COLOR STIFF PVB :
LAMINATES

This is a decision on the petition filed February 6, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 16, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became

1 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 § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

abandoned on September 17, 2005. A notice of abandonment was mailed on January 18, 2006.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. §1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $1500 for a large entity and $750 for a small entity. Although Petitioner indicated in his petition that said fee was included with the petition, there is no record of said fee actually having been received, and a review of the electronic file does not indicate that an authorization to charge any deficiencies to a Deposit Account was filed with this petition. Therefore, requirement number (2) has not been met.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[2]

In view of the foregoing, this petition is **DISMISSED**.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries

---

[2] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (571) 273-8300- please note this is a central facsimile number.

concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Kevin Dobson
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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Paper No. None

E I du Pont de Nemours & Company
Legal Patents
Wilmington DE 19898

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OFFICE OF PETITIONS

In re Application of :
Bert C. Wong et al. :
Application No. 10/501,491 : DECISION ON RENEWED PETITION
Filed: July 13, 2004 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. AD6843USPCT :
Title: LOW-COLOR STIFF PVB :
LAMINATES

This is a decision on the renewed petition filed May 19, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 16, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became

1 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 § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

abandoned on September 17, 2005. A notice of abandonment was mailed on January 18, 2006.

The original petition was submitted on February 6, 2006, and was dismissed via the mailing of a decision on May 5, 2006 for failure to submit the petition fee.

With the present Petitioner has provided authorization for the Office to charge the petition fee to his Deposit Account. With the original petition, Petitioner provided an amendment and the proper statement of unintentional delay. A terminal disclaimer is not required.

As each of the requirements of 37 C.F.R. §1.137(b) have been met, this renewed petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the original petition on February 6, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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ENGLEWOOD CLIFFS NJ 07632-3100

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OFFICE OF PETITIONS

In re Application of :
Batchelor et al. :
Application No. 10/501,499 : DECISION ON PETITION
Filed: July 14, 2004 :
Attorney Docket No. C4195(C) :

This is a decision on the petition, filed August 7, 2008, 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**.

The above-identified application was held abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 4, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 8, 2008. A Notice of Abandonment was mailed on July 31, 2008.

Petitioner asserts that the Office action dated April 4, 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 non-received Office action would have been entered had it been received 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.

Petitioner has submitted the issue and publication fees with the instant petition. Accordingly, this matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Mamoru SHOJI, et al.	:	
Application No. 10/501,500	:	DECISION ON PETITION
Filed: July 14, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 10407-95US (A3030MT-US1)	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed August 22, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity

immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Jefferey Harold at 571-272-7519, or to the undersigned at 571-272-7099.

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 2627 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM, MA 02451-1215

Mail Date: 04/21/2010

Applicant	: Andrew Baxter	: DECISION ON REQUEST FOR
Patent Number	: 7662825	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/501,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1123** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

10 FEB 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dr. Paul J. Vincent
Dreiss, Fuhlendork, Steimle & Becker
Postfach 10 37 62
D-70032 Stuttgart
FEDERAL REPUBLIC OF GERMANY

In re Application of :
SCHNEIDER : DECISION ON PETITION
Application No.: 10/501,531 :
Filing Date: 16 July 2004 : UNDER 37 CFR 1.137(b)
Atty. Docket No.: 2104 0070US :
For: METHOD FOR ADJUSTING A VOLUMETRIC :
FLOW-VARIABLE POSITIVE DISPLACEMENT :
PUMP IN AN INTERNAL COMBUSTION :
ENGINE :

The petition to revive under 37 CFR 1.137(b) filed 16 July 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 22 February 2002 under 35 U.S.C. 363 and will be given a date of **16 July 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

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MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. **7,200,519**
Issue Date: April 3, 2007
Application No. 10/501,544
Filed: May 23, 2005
Attorney Docket No. **1501-1257**

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed March 19, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "S.P.M. Instrument AB."

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 (emphasis added). *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Stefan Lindberg, et al. to S.P.M. Instrument AB was recorded on March 9, 2009, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Christopher S. Haggerty appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Haggerty desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Haggerty, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision on petition should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER S. HAGGERTY**
ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. **7,054,761** :
Issue Date: May 30, 2006 :
Application No. 10/501,545 : DECISION ON PETITION
Filed: January 31, 2005 : UNDER 37 CFR 3.81(b)
Attorney Docket No. **1501-1261** :

This is a decision on the petition filed March 19, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "S.P.M. Instrument AB."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Stefan Lindberg, et al. to S.P.M. Instrument AB was recorded on March 5, 2009, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Christopher S. Haggerty appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Haggerty desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Haggerty, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision on petition should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER S. HAGGERTY**
ALSTON & BIRD, LLP
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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

25 MAY 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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VENABLE LLP
PO Box 34385
Washington, DC 20043-9998

In re Application of: BROGARDH, Torgny, et al. :
U.S. Application No.: 10/501,554 : DECISION ON PETITION TO
PCT No.: PCT/SE02/00075 : CORRECT INVENTORSHIP
International Filing Date: 16 January 2002 :
Priority Date: None :
Attorney's Docket No.: 43315-205197 :
For: INDUSTRIAL ROBOT :

This decision is issued in response to the "Request To Correct Inventorship" filed 05 May 2005, treated herein under 37 CFR 1.497(d). Applicants have paid the required processing fee.

BACKGROUND

On 16 January 2002, applicants filed international application PCT/SE02/00075 which did not claim an earlier priority date and which designated the United States. On 24 July 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 four applicant/inventors for the United States: Torgny BROGARDH, Daniel WAPPLING, Asa VALLIN, Mathilda ANDREASSON, and Ivan LUNDBERG.

The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 16 July 2004.

On 16 July 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 11 March 2005, 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.

On 05 May 2005, applicants filed a response to the Notification Of Missing Requirements that included a declaration document and the "Request To Correct Inventorship" considered herein. The request seeks to remove inventor Daniel WAPPLING from the application and add inventor Hans SKUTBERG.

DISCUSSION

The declaration document filed by applicants on 05 May 2005 identifies and is executed by five inventors: Hans SKUTBERG, Torgny BROGARDH, Asa VALLIN, Mathilda

ANDREASSON, and Ivan LUNDBERG. This does not correspond to the inventorship listed on the international application. Specifically, the declaration adds Hans SKUTBERG as an inventor and removes Daniel WAPPLING. As noted above, the present submission seeks to correct the inventorship to correspond to the filed declaration.

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), which states the following:

> (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' 05 May 2005 submission satisfies requirements (1) and (2), above, but item (3) is not satisfied. Specifically, while applicants have submitted a statement of consent from the purported assignee ABB AB, a copy of the assignment itself is not present in the application file. Either a copy of the assignment or a specific reference to its recorded location in the USPTO (i.e., reel and frame number) is required before the consent of the assignee can be accepted herein (see 37 CFR 3.73(b)). Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), the inventorship herein cannot be corrected on the present record.

In addition, the declaration document filed 05 May 2005 is unacceptable in that it was submitted in an improper form. The six pages of declaration appear to be a compilation of more than one copy of the declaration (there are five copies of page "2 of 2" included in the document). Such compilation is impermissible (see M.P.E.P. § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). Accordingly, applicants must submit copies of the complete declarations executed by each of the inventors.

CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

The declaration filed by applicants on 05 May 2005 is not acceptable under 37 CFR 1.497 in that the declaration appears to be an improper compilation of multiple declarations and it fails to properly identify the current inventors of record herein.

If reconsideration on the merits of this request under 37 CFR 1.497(d) 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)" and should include the materials required to satisfy 37 CFR 1.497(d)(3) (i.e., a copy of the assignment or a proper reference to the recorded assignment pursuant to 37 CFR 3.73(b)) and complete copies of each declaration executed by the inventors, 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
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

08 SEP 2005

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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VENABLE LLP
PO Box 34385
Washington, D.C. 20043-9998

In re Application of:	:	
BROGARDH, Torgny, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/501,554	:	REQUEST TO CORRECT
PCT No.: PCT/SE02/00075	:	INVENTORSHIP
International Filing Date: 16 January 2002	:	(37 CFR 1.497(d))
Priority Date: None	:	
Attorney's Docket No.: 43315-205197	:	
For: INDUSTRIAL ROBOT	:	

In a decision mailed by this Office on 25 May 2005, applicants' request to correct inventorship was dismissed without prejudice for failure to satisfy all the requirements of 37 CFR 1.497(d). Specifically, applicants had not provided a copy of the assignment, as required to confirm the consent of the assignee to the correction of inventorship. In addition, the 25 May 2005 decision noted that the declaration materials filed by applicants were not in an acceptable form.

On 14 June 2005, applicants filed the renewed request under 37 CFR 1.497(d) considered herein. The submission included a copy of the assignment and complete copies of the executed declaration. Accordingly, applicants have now satisfied the requirements to correct the inventorship herein.

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship herein is corrected to the extent that Daniel WAPPLING is removed as an inventor of record and Hans SKUTBERG is added as an inventor of record.

The declarations filed 14 June 2005 are accepted in compliance with 37 CFR 1.497.

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 14 June 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Hans Skutberg	: DECISION ON REQUEST FOR
Patent Number	: 7637710	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/501,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1172** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

10 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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Donald S. Dowden
COOPER & DUNHAM LLP
1185 Avenue of the Americas
New York, N.Y 10036

In re Application of	:
KILDEGAARD, Casper	: DECISION ON
US Application No.: 10/501,556	:
PCT Application No.: PCT/DK03/00013	:
Int. Filing Date: 10 January 2003	: PETITION UNDER
Priority Date: 11 January 2002	:
Attorney's File Reference: 1175/72584	:
For: AN EMBEDDING ELEMENT TO BE EMBEDDED IN THE END PART OF A WINDMILL BLADE, A METHOD OF PRODUCING SUCH AN EMBEDDING ELEMENT AS WELL AS EMBEDDING OF SUCH EMBEDDING ELEMENTS IN A WINDMILL BLADE	: 37 CFR 1.137 (b)

Applicant's "Petition Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 15 July 2004 is **GRANTED**.

BACKGROUND

On 10 January 2003, applicant filed international application PCT/DK03/00013. The international application claims a priority date of 11 January 2002 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 11 July 2004. The application became abandoned as of midnight on 12 July 2004 for failure to pay the basic national fee (11 July 2004 was a Sunday).

On 15 July 2004, applicant filed the instant petition for revival accompanied by, *inter alia,* the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2) (including a Transmittal Letter and Preliminary Amendment), an executed declaration, and the petition fee of $1330.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage. A proper reply requires payment of the basic national fee and submission of a copy of the international application, if such a copy has not already been communicated by the International Bureau

The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "the entire period of abandonment of the application nationalized by the enclosed filing under 35 U.S.C. § 371, due July 11, 2004, was unintentional" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and thus, satisfies the requirements of 37 CFR 1.137(b)(3). If this is an incorrect interpretation in view of the rules, applicant is required to promptly provide a statement to that effect in response to this decision. A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

Applicant has satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 10 January 2003 under 35 U.S.C. 363 and a date of 15 July 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.

Ula Ruddock
PCT Legal Administration Detailee
PCT Special Programs Office
Telephone: 571-272-6094

Richard Cole
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHOATE, HALL & STEWART, LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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DEC 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Mikhail I. Papisov	:	
Application No. 10/501,565	:	DECISION GRANTING PETITION
Filed: November 7, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04924-790037	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 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 13, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

---

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

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JUL 25 2006

OFFICE OF PETITIONS

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of :

Hendricus Antonius Hoogland :
Application No. 10/501,587 : DECISION ON PETITION
Filed: March 21, 2005 : TO WITHDRAW
Attorney Docket No.: 294-193 PCT/US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 5, 2005.

The request is **APPROVED**.

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

The request was signed by Justin K. Holmes.

Justin K. Holmes has been withdrawn.

All correspondence will continue to be directed to the above address of record.

This application is being referred to Technology Center AU 3722.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

24 JUN 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Karin H. Butchko
Carlson, Gaskey & Olds, P.C.
400 W. Maple
Suite 350
Birmingham, MI 48009

In re Application of	:	DECISION ON
David WOESSNER	:	
PCT No.: PCT/US03/00977	:	
Application No.: 10/088,181	:	PETITION UNDER
Int. Filing Date: 14 January 2003	:	
Priority Date: 15 January 2002	:	
Attorney's Docket No.: 60158-272	:	37 CFR 1.47(b)
For: HOUSE IN TUBE FORMING ASSEMBLY AND PROCESS	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(b)" submitted on 12 April 2005 that seeks the acceptance of the application without the signature of the inventor David WOESSNER.

BACKGROUND

On 14 January 2003, applicant filed international application PCT/US03/00977, which claimed priority of an earlier application filed 15 January 2002.

On 14 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 09 February 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The notification set two months from the date of this notice or 22 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 11 December 2002 a petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied item (3), and but not items (1)-(2), and (4) - (6) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has not satisfied item (1) since the petition fee has not been provided.

Regarding requirement (2), applicant has not provided sufficient evidence that Mrs. Woessner, the legal representative of the deceased inventor David Woessner, refused to sign the declaration. Ms. Amy Spaulding has not sufficiently demonstrated that a copy of the application papers were presented to the non-signing legal representative of the deceased inventor since the emails with the attachments were directed to David and not to Catherine Woessner. Also, applicant has not stated that the application papers (specification, including claims, drawings, and oath or declaration) were sent to the Mr. Woessner's legal representative and that the legal representative refused to sign the required papers as stipulated under MPEP 409.03(d) after reviewing all the application papers.

In addition, it is not unclear if Mrs. Woessner refuses to sign since in the email dated March 15, 2005 she indicates that she needs to get a lawyer and the email dated April 5, 2005 she refers that she is being "pressured into something that it is not right." These actions do not yet contemplate a refusal on her part because she appears to be considering her options. She should be allowed a certain time–period to make her decision. In fact, the petition was filed on April 12, 2005 a week after receiving her last email which not enough time to construe her actions as a refusal to sign the required papers.

Regarding item (3), applicant has stated the last known address of the Mrs. Woessner:

5641 Spencer Road
Mount Sterling, KY
40353, United States

Regarding item (4) a declaration has not been provided executed by an appropriate officer of company on behalf of the non-signing legal representative of the deceased inventor.

Regarding item (6) applicant has not presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage.

Regarding item (5) applicant has not submitted proof that applicant has sufficient proprietary interest in the application. Mr. Zakrzewski's statement is not sufficient without corroborating evidence from an employment agreement with a written agreement to assign the invention since there is no copy of a signed assignment (signed assignment by inventor Mr. David Woessner) provided with this petition. Note MPEP 409.03(f)

If the application has been 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.

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.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

09 SEP 2005

#10

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Karin H. Butchko
Carlson, Gaskey & Olds, P.C.
400 W. Maple
Suite 350
Birmingham, MI 48009

In re Application of	:	DECISION ON RENEWED
David WOESSNER	:	
PCT No.: PCT/US03/00977	:	
Application No.: 10/088,181	:	PETITION UNDER
Int. Filing Date: 14 January 2003	:	
Priority Date: 15 January 2002	:	
Attorney's Docket No.: 60158-272	:	37 CFR 1.47(b)
For: HOUSE IN TUBE FORMING ASSEMBLY AND PROCESS	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(b)" submitted on 24 August 2005 that seeks the acceptance of the application without the signature of Mrs. Woessner, the legal representative of deceased inventor David WOESSNER.

BACKGROUND

In a decision from this office on 24 June 2005, the petition filed on 12 April 2005 was dismissed. The decision stated that items (1)-(2) and (4)-(6) were not satisfied.

On 24 August 2005, petitioner filed the current renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1)-(4) and (6) but not item (5) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided.

Regarding requirement (2), applicant has provided sufficient evidence that Mrs. Woessner, the legal representative of the deceased inventor David Woessner, refuses to sign the declaration. Petitioner on July 11, 2005 emailed Mrs. Woessner the PCT application, a declaration and an assignment for her review and signature. On July 12, 2005 Mrs. Woessner expressly refused to sign the required papers as evidenced by her email.

Regarding item (4) a declaration has been provided executed by an appropriate officer of company on behalf of the non-signing legal representative of the deceased inventor.

Regarding item (6) petitioner has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage.

Regarding item (5) petitioner has still not submitted proof that applicant has sufficient proprietary interest in the application. The court case cited by petitioner and Mr. Zakrzewski statement are helpful but by themselves are not dispositive and are not a substitute for the legal memorandum required when there is no assignment document of the invention by the inventor as discussed in the previous decision and below.

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.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

Rafael Bacares
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#12

UNITED STATES PATENT and TRADEMARK OFFICE

02 DEC 2005

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Karin H. Butchko
Carlson, Gaskey & Olds, P.C.
400 W. Maple
Suite 350
Birmingham, MI 48009

In re Application of	:	DECISION ON RENEWED
David WOESSNER	:	
PCT No.: PCT/US03/00977	:	
Application No.: 10/088,181	:	PETITION UNDER
Int. Filing Date: 14 January 2003	:	
Priority Date: 15 January 2002	:	
Attorney's Docket No.: 60158-272	:	37 CFR 1.47(b)
For: HOUSE IN TUBE FORMING ASSEMBLY AND PROCESS	:	

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(b)" filed on 14 November 2005.

BACKGROUND

In a decision from this Office on 09 September 2005, the petition filed under 37 CFR 1.47(b) was dismissed. The decision stated that petitioner had not submitted proof that applicant had sufficient proprietary interest in the application.

On 14 November 2005, applicant submitted a "Renewed Petition Under 37 CFR 1.47(b)" submitting sufficient proprietary interest in the application.

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.

Petitioner has now satisfied requirement and (5) of 37 CFR 1.47(b), thus completing the requirements under 37 CFR 1.47(b).

Regarding item (5) petitioner has submitted proof that applicant has sufficient proprietary interest in the application because the legal memorandum prepared by Karin H. Butchko establishes that under Mr. Woessner's employment relationship with Cooper he was bound to assign to Cooper any invention obtained relating to his employment.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **12 April 2005.**

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

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

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Mrs. Catherine Woessner
(Legal Representative)
5641 Spencer Road
Mount Sterling, KY 40353

In re Application of
David WOESSNER
PCT No.: PCT/US03/00977
Application No.: 10/088,181
Int. Filing Date: 14 January 2003
Priority Date: 15 January 2002
Attorney's Docket No.: 60158-272
For: HOUSE IN TUBE FORMING ASSEMBLY
AND PROCESS

Dear Mrs. Woessner:

Your husband is named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, he will be designated as an inventor.

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

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PCT Legal Office
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28 SEP 2006

Diversa C/O MOFO S.D.
3811 Valley Center Drive, Suite 500
San Diego, CA 92130

In re Application of :
FREY et al. :
Application No.: 10/501,592 : DECISION
Filing Date: January 24, 2005 :
Attorney Docket No.: 564462003801 :
For: METHODS FOR MAKING :
POLYNUCLEOTIDES AND PURIFYING :
DOUBLE-STRANDED
POLYNUCLEOTIDES

This decision is in response to applicants' "Request for Corrected Filing Receipt" filed 15 March 2005. Applicants are requesting that "U.S. patent application serial no. 10/077,474 filed on February 14, 2002 be added under 'Domestic Priority data as claimed by applicant" to the Official Filing Receipt of the above-identified application.

BACKGROUND

On 14 January 2003, applicants filed international application PCT/US03/01189 which claimed a priority date of 14 January 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 July 2004.

On 14 July 2004, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a copy of the international search report.

On 24 January 2005, applicant filed an executed declaration of inventorship in response to the Notification of Missing Requirements mailed 22 September 2004.

On 03 March 2005, 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) which indicated a date under 35 U.S.C. 371 of 24 January 2005.

On 15 March 2005, applicants filed "Request for Corrected Filing Receipt."

DISCUSSION

Applicants are requesting that "U.S. patent application serial no. 10/077,474 filed on February 14, 2002 be added under 'Domestic Priority data as claimed by applicant'" of the Official Filing Receipt for the above-identified application. 37 CFR 1.78(a) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the application is whether the subject application is a continuation, divisional, or continuation-in-part of a prior filed nonprovisional application. In this case, the benefit claim to 10/077,474 does not comply with 37 CFR 1.78 since the a proper relationship between PCT/US03/01189 and 10/077,474 has not been stated. Therefore, applicants' request for corrected filing receipt cannot be granted at this time.

Applicants may wish to consider the petition procedure under 37 CFR .1.78(a)(3) for acceptance of a delayed benefit claim.

CONCLUSION

Applicants' request for corrected filing receipt is **REFUSED**.

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

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

23 NOV 200

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Patrick B. Law
BELL BOYD & LLOYD LLC
P.O. Box 1135
Chicago, IL 60690-1135

In re Application of :
ENDERLEIN *et al* :
U.S. Application No.: 10/501,595 :
PCT No.: PCT/DE03/00067 :
Int. Filing Date: 07 January 2003 : **DECISION**
Priority Date: 11 January 2002 :
Attorney Docket No.: 112300-1885 : **UNDER**
For: METHOD FOR ANONYMOUS :
IDENTIFICATION OF THE PROFILES : **37 CFR 1.10(d)**
OF SUBSCRIBERS IN A :
COMMUNICATION SYSTEM AND :
CORRESPONDING MODULE :

This decision is in response to the petition under 37 CFR 1.10(c). No fee is required.

BACKGROUND

Applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 using Express Mail. The United States Designated/Elected Office (DO/EO/US) listed the date of receipt of these documents as 14 July 2004.

On 01 October 2004, applicants filed the instant petition which was accompanied by *inter alia*, a copy of the Daily Express Mail Processing Log for 12 July 2004 and a copy of the USPS Track/Confirm records for Express Mail label No. EV351200551US.

DISCUSSION

A review of the above-captioned application reveals that the Addressee Copy of Express Mail label No. EV351200551US is located in the file and the "Date In" box on the receipt indicates "7 14 04." The label is also stamped "USPTO MAIL CENTER JUL 14 2004 EXPRESS MAIL DATE IN." Accordingly, it was appropriate for the USPTO to give this application a filing date of 14 July 2004.

Applicants claim that the above-identified application should be accorded a filing date of 12 July 2004 because the USPS incorrectly entered the wrong "date-in" on the Express Mail label. Any correspondence received by the United States Patent and Trademark Office delivered by "Express Mail" will be considered filed in the Office on the date of deposit with the USPS. 37 CFR 1.10(a). Also, 37 CFR 1.10(d) allows that:

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the Express Mail mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the Express Mail mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail;

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the Express Mail Post Office to Addressee service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The instant petition is considered to be filed promptly. A review of the above-identified international application verifies that the Express Mail mailing label number EV351200551US is listed on the transmittal letter (Form PTO-1390). Items (1) and (2) of 37 CFR 1.10(d) are satisfied.

Concerning item (3), applicants submitted a copy of the USPS Track/Confirm record for Express Mail No. EV351200551US which shows that the item was accepted by the USPS on "July 12, 2004, 7:33 pm, Chicago, IL 60607." The evidence from the USPS is sufficient to satisfy item (3). Further, the "Certification of Express Mail Under 37 CFR 1.10" located in the file indicates a date of mailing of 12 July 2004. Hence, the date listed by USPS personnel on the "Date In" box of the Express Mail Label is incorrect. USPS records clearly show that the documents were deposited with the USPS on 12 July 2004 not 14 July 2004.

CONCLUSION

For the reasons listed above, applicants' petition to correct the date of receipt of

national stage papers pursuant to 37 CFR 1.10(d) is **GRANTED**.

It is noted that the international filing date and priority date listed on the transmittal letter (Form PTO-1390) filed with the original papers and the transmittal letter filed with the current petition are incorrect. But a review of the declaration shows that the correct international filing date and priority date are recorded. This declaration is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 07 January 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 12 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.: (571) 272-3302

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P.O. Box 1450
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FEB 23 2010

OFFICE OF PETITIONS

KEVIN S DOBSON
E I DU PONT DE NEMOURS & COMPANY
LEGAL PATENTS
WILMINGTON DE 19898

In re Application of :
Donald L. Rymer et al. :
Application No. 10/501,598 : DECISION ON PETITION
Filed: July 13,2004 :
Attorney Docket No. **AD6856USPCT** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 18, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed August 18, 2009. Accordingly, the date of abandonment of this application is November 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **MARK D. KULLER**
E.I. DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122-B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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JUL 09 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,629,053	: DECISION ON REQUEST
Pascale Lacan et al.	: FOR
Issue Date: December 8, 2009	: RECONSIDERATION OF
Application No. 10/501,600	: PATENT TERM ADJUSTMENT
Filed: December 21, 2004	: and
Atty Docket No. **ESSR:085US/10408500**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and forty-one (1141) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and forty-one (1141) days is **GRANTED**.

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

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.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and forty-one (1141) days.**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,629,053 B2

DATED : Dec. 8, 2009

INVENTOR(S) : Lacan 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 (811) days

Delete the phrase "by 811 days" and insert – by 1141 days--

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of KOBAYASHI et al.	:	DECISION ON
Application No.: 10/501,613	:	
PCT No.: PCT/JP02/00312	:	PETITION
Int. Filing: 18 January 2002	:	
Priority Date: None	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: 06920/0201631-US0	:	
For: PROCESS FOR PRODUCING A-HYDROXY ACID AMMONIUM SALT	:	

This is a decision on applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Kasumi Maeda, filed in the United States Patent and Trademark Office (USPTO) on 18 February 2005.

BACKGROUND

On 14 July 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 Kasumi Maeda. Applicant alleges that Ms. Maeda is unavailable to sign the application. The petition included authorization to charge the requisite petition fee, a statement of facts regarding Kasumi Maeda unavailability to sign and a declaration signed by the 37 CFR 1.47(a) applicant.

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 Masami Koguchi, an officer of Nippon Soda Co. Ltd.. Ms. Koguchi states, in pertinent part, that Ms. Maeda was unavailable at the time of the filing of the subject application, July 14, 2004.... On July 13, 2004, I forwarded copies of the patent application, declaration and assignment to Ms. Maeda by certified mail to her last known address". A copy of the letter and English translation thereof was attached to the declaration. On the same day, Ms. Koguchi made contact with Ms. Maeda's family by telephone and inquired whether or not she was available to sign the patent application. Ms. Maeda's mother informed Ms. Koguchi that Ms. Maeda was missing and had not been seen since March 30 , 2002 and that her family filed a police report on March 30 , 2002 with the police department in Kanagawa-Ken, Japan.

Ms. Koguchi asked Mrs. Maeda to contact the police department to obtain a certified copy of the missing person report. However, the police report is not available as it contains confidential personal information. Mrs. Maeda confirmed that the police extensively searched the area where her daughter's bag was found (on a cliff, in the water below and by air). Ms. Koguchi concludes that diligent attempts to contact Ms. Maeda were made and that all attempts have been unsuccessful.

Applicant has provided sufficient evidence that Kasumi Maeda is unavailable to sign the application. Thus, item (2) is satisfied. Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

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 18 February 2005. The application has an international filing date of 18 January 2002 under 35 U.S.C. 363, and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 February 2005.

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
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

05 APR 2005

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Ms. Kasumi Maeda
Yokouchi 2771-12
Hiratsuka-Shi
254-0002, Kanagaw-Ken
Japan

In re Application of KOBAYASHI et al.	:	DECISION ON
Application No.: 10/501,613	:	
PCT No.: PCT/JP02/00312	:	PETITION
Int. Filing: 18 January 2002	:	
Priority Date: None	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: 06920/0201631-US0	:	
For: PROCESS FOR PRODUCING A-HYDROXY ACID AMMONIUM SALT	:	

Dear Ms Maeda:

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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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JUL 11 2008

BRACHER RAWLINS LLP
Fox Court
14 Gray's Inn Road
London WC1X 8HN

Enclosure: February 13, 2008 letter, requesting registration of a "Freezing Injunction"

For: U.S. Patent Nos. 6,818,033; 6,849,094; 6,936,095; 7,207,197 and 7,300,482; and U.S. Patent Application Publication Nos. 2003/0159412; 2004/0103785; 2004/0083773; 2004/0244438; 2005/0092032; 2005/0194295 and 2006/0162299	:	**DECISION DISMISSING REQUEST**

This is a decision on the letter, dated February 13, 2008, requesting registration of a "Freezing Injunction," issued In The High Court of Justice, Chancery Division, against (a) U.S. Patent Nos. 6,818,033, 6,849,094, 6,936,095, 7,207,197, 7,300,482, any other U.S. patents for which John Herbert North is the applicant, and (b) U.S. Patent Application Publication Nos. 2003/0159412, 2004/0103785, 2004/0083773, 2004/0244438, 2005/0092032, 2005/0194295 and 2006/0162299. The letter is taken as written requests for both (a) a citation of information under 35 U.S.C. § 301 in multiple patents, and (b) a citation of information under 35 U.S.C. § 122(b) in multiple published patent applications.

This request is before the Office of Patent Legal Administration for decision.

The present request for citation of the Freezing Injunction in the above-captioned U.S. patents and patent application publications has been fully considered. The request is **dismissed**, for the reasons set forth below.

RELEVANT STATUTES, REGULATIONS, AND EXAMINING PROCEDURE

37 CFR 1.4(c) provides:

> "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must

be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

35 U.S.C. § 122(b) provides:

> (c) PROTEST AND PRE-ISSUANCE OPPOSITION.– The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

The Manual of Patent Examining Procedure (MPEP) § 1134 provides (in part):

> Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) that does not comply with the requirements of 37 CFR 1.99 will be disregarded and not entered into the application file.

35 U.S.C. § 301 provides:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

The Manual of Patent Examining Procedure (MPEP) § 2205 provides (in part):

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> If the prior art citation contains any issue not directed to patents and printed publications, it should not be entered into the patent file, despite the fact that it may otherwise contain a complete submission of patents and printed publications with an explanation of the pertinency and applicability. Rather, the prior art citation should be returned to the sender as described in MPEP § 2206.

DISCUSSION

The instant written request for citation of the Freezing Injunction is improper, because 37 CFR 1.4(c) provides that "each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." In

this instance, a third party has provided written requests for both (a) a citation of information under 35 U.S.C. § 301 in a patent, and (b) a citation of information under 35 U.S.C. § 122(b) in a published patent application. Accordingly, the request is improper, and is dismissed.

It is additionally noted as follows:

1. The request for "any other U.S. patents for which John Herbert North is the applicant" is indefinite and does not identify a specific patent to which the request may be applied. Further, 37 CFR 1.4(b) requires that "a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical," and requestor clearly has not provided copies for all the above-captioned patents, published patent applications, and any other patents for which John Herbert North is the applicant.

2. The prior art which may be submitted under 35 U.S.C. § 301 is limited to patents or printed publications. The present information citation (submission) contains an issue not directed to patents and printed publications, as well as comments on the information submitted. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 301 and MPEP 2205.

3. Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) must comply with the requirements of 37 CFR 1.99. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 122(b) and MPEP 1134.

CONCLUSION

Accordingly, the written request under 35 U.S.C. § 301 and 35 U.S.C. § 122(b) for citation of prior art is **dismissed**

The citation (submission) of information will not be entered into any file, and it is returned herewith to the sender.

Any questions concerning this communication should be directed to Nicole D. Dretar, Legal Advisor, at 571-272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 24, 2008

22 JUL 2004

#3

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John F. Moran
US ARMY RDECOM-ARDEC
Attn: AMSRD-AAR-GCL/ Building 3
Picatinny, NJ 07806-5000

In re Application of :
VAN DYKE-RESTIFO et al. :
Application No.: 10/501,620 : DECISION ON PETITION
PCT No.: PCT/US01/25605 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 13 August 2001 :
Priority Date: 06 September 2000 :
Attorney Docket No.: 2000-008-A(PCT) :
For: AUTOMATIC PRIMER FEED MECHANISM

The petition to revive under 37 CFR 1.137(b) filed 08 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 of $770 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

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LUCASH, GESMER & UPDEGROVE, LLP
40 BROAD ST
SUITE 300
BOSTON MA 02109

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of :
Miller, James R. :
Application No. 10/501,639 : DECISION ON PETITION
Filed: July 15, 2004 : TO WITHDRAW
Attorney Docket No. Rsty-001-US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 2, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "the client has been advised that we are transferring the file to them and withdrawing as counsel", does not meet any the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: James R, Miller
40 Parkwood Drive
Milton, MA 02186

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CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of :
Patel, et al. :
Application No.: 10/501,653 :
Filed: July 15, 2004 : ON PETITION
Attorney Docket No.: AMAGN,.0102 US :
For: WIRELESS DISTRIBUTION & :
COLLECTION SYSTEM :

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 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 proper reply within the meaning of 37 CFR 1.113 to the final Office action of August 18, 2008. An amendment, filed October 20, 2008, failed to place this application in *prima facie* condition for allowance, as was explained in the November 3, 2008 Advisory action. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, this application became abandoned on November 19, 2008. A Notice of Abandonment was mailed on March 31, 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 (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).

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 required $270.00 fee; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

After the mailing of this decision, the file will be forwarded to Technology Center AU 2457 to await receipt of the appeal brief.

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

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of
Adrian Blagg et al.
Application No. 10/501,667
Filed: July 17, 2004
Attorney Docket No. 102792-317

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(3)

This is a decision on the petition, filed October 17, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application. *See* 37 CFR 1.313(c)(3).

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

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

Frances Hicks
Petitions Examiner
Office of Petitions

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Orum & Roth
53 West Jackson Boulevard
Chicago IL 60604

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OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Karl-Heinz Bauer :
Application No. 10/501,668 : DECISION ON PETITION
Filed: July 15, 2004 : TO WITHDRAW
Attorney Docket No. 13908 : 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 16, 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 Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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DEC 1 0 2009

OFFICE OF PETITIONS

BARBARA A. SHIMEI
DIRECTOR, PATENTS & LICENSING
BAYER HEALTHCARE LLC - PHARMACEUTICALS
555 WHITE PLAINS ROAD, THIRD FLOOR
TARRYTOWN NY 10591

In re Application of :
Ecker, et al. :
Application No. 10/501,677 : DECISION
Filed: 16 July, 2004 :
Attorney Docket No. Le A 35 839 :

This is a decision on the petition filed on 17 September, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 19 August, 200, with reply due absent extension of time on or before 19 November, 2008.

The application went abandoned by operation of law after midnight 19 November, 2008.

The Office mailed the Notice of Abandonment on 16 April, 2009.

On 17 September, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment and made the statement of unintentional delay.

The record (including the petition filed on 17 September, 2009) does not necessitate a finding that the delay between midnight 19 November, 2008 (the date of abandonment), and 17 September, 2009 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners and their Counsel Ralph A. Loren (Reg. No. 29,325) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

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 **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

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

[3] 35 U.S.C. §133 provides:

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

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

[4] Therefore, by example, an 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.

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.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1612 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[5]) 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

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/501,692	Richard Smith- carliss	END041182PCTUS

035811
IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA, PA 19103

CONFIRMATION NO. 4419
OC000000016431342
OC000000016431342

Date Mailed: 07/26/2005

FILING OF 35 U.S.C. 111 APPLICATION

The application papers filed are not clearly identified as a submission to enter the national stage under 35 U.S.C. 371 or contain conflicting or no instructions as to whether the papers are filed under 35 U.S.C. 371 or 35 U.S.C. 111. In accordance with 37 C.F.R. 37 C.F.R. 1.495(g), such papers are accepted for filing under 35 U.S.C. 111. Accordingly, the papers do not satisfy the requirements for treatments as the national stage of a PCT 1.16, 37 C.F.R. 1.17 and 37 C.F.R. 1.18.

PART 3 - OFFICE COPY

FORM PCT/DO/EO/911 (371 Conversion to Regular)

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T. Daniel Christenbury
Piper Rudnick
One Liberty Place, Suite 4900
1650 Market Street
Philadelphia, PA 19103

In re Application of	:	
SMITH-CARLISS et al.	:	
Application No.: 10/501,692	:	DECISION ON PETITION
Filing Date: 15 July 2004	:	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: END04182PCTUS	:	
For: ANALGESIC AND METHODS OF USE	:	

This is a decision on applicant's "Petition to Revive under 37 CFR 1.137(b)" filed 15 July 2004. The petition fee has been submitted.

BACKGROUND

On 29 August 2002, applicant filed international application PCT/US02/27936, which claimed a priority date of 29 August 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 March 2004.

On 15 July 2004, applicant filed, *inter alia*: a transmittal letter; the basic filing fee; an application containing a specification; and a petition to revive an international application PCT/US02/27936 for purposes of copendency under 37 CFR 1.137(b).

DISCUSSION

International application PCT/US02/27936 became abandoned as to the United States of America at midnight on 01 March 2004 for failure to pay the basic national fee.

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 it has been previously submitted, (2) the fee 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, in an application filed before 08 June 1995.

With regard to Item (1), the proper response was the filing of the continuing application. International application PCT/US02/27936 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the

present continuing application number 10/007,722.

As to item (2), the required petition fee has been paid.

With regard to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

As to item (4), as the international application was filed after 08 June 1995, a terminal disclaimer is not required.

CONCLUSION

For the reasons discussed above, applicant's petition to revive international application PCT/US02/27936 is **GRANTED**.

International application PCT/US02/27936 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

The application will then be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

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28 JUL 2005

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In re Application of :
SMITH-CARLISS et al. :
U.S. Application No.: 10/501,692 : DECISION ON PETITION
Filing Date: 14 July 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: END041182PCTUS :
For: ANALGESICS AND METHODS :

This decision is in response to applicants' "Petition for Revive under 37 CFR 1.37(b)" filed 15 July 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 August 2002, applicants filed international application PCT/US02/27936 which claimed priority of an earlier application filed 29 August 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 March 2004.

On 15 July 2004, applicants filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by a continuation application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicants have supplied the proper reply in the form of the filing of a continuation application.

As to item (2), applicants have submitted the requisite petition fee and thus satisfying item (2).

Regarding item (3), applicants' statement that "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" satisfies this element.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicants' petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/US02/27936 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

The application will the be forwarded to Office of Initial Patent Examination for continued processing as an application under 35 U.S.C. 111(a).

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OFFICE OF PETITIONS

In re Application of :
Richard Smith-Carliss et al. :
Application No. 10/501,692 : DECISION GRANTING PETITION
Filed: July 15, 2004 :
Attorney Docket No.: END041182PCTUS :

This is a decision on the petition filed December 23, 2005, in response to the Notice of Incomplete Nonprovisional Application mailed October 21, 2005, requesting that the above identified application be accorded a filing date of July 15, 2004. The petition is treated under 37 CFR 1.53

On July 15, 2004 the application was filed. However, on October 21, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without a specification and that the filing date of the application would be the date of receipt of the specification.

In response, the present petition with a certificate of mail dated December 21, 2005, and a complete copy of the application as filed on July 15, 2004, including the specification, was submitted. Petitioners argue that the specification was filed with the other application papers on July 15, 2004. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of July 15, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, a 26 page specification was supplied. Petitioner requests that the application, including the specification, be accorded a filing date of July 15, 2004.

Upon review, the specification purportedly deposited on July 15, 2004 has not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 15, 2004, included a 26 page specification, which was subsequently misplaced in the USPTO. Therefore, the application, including the specification, was complete on filing and entitled to a filing date of July 15, 2004.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed October 21, 2005, is

withdrawn. Therefore, the petition fee as well as all other excess fees have been credited back to deposit account no. 50-2719.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of July 15, 2004, using the application papers filed on July 15, 2004 and the papers supplied on December 23,2005 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

09 MAR 2005

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#16

Brinks Hofer Gilson & Lione
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In re Application of UEDA et al :
U.S. Application No.: 10/501,698 :
PCT Application No.: PCT/JP03/00394 :
Int. Filing Date: 20 January 2003 : DECISION
Priority Date Claimed: 18 January 2002 :
Attorney Docket No.: 5404/81 :
For: METHOD FOR STABILIZING REDUCED COENZYME Q_{10} AND COMPOSITION THEREFOR :

This is in response to applicant's "Petition to Correct Inventor's Name Under 37 C.F.R. § 1.182" filed 03 February 2005.

BACKGROUND

On 20 January 2003, applicant filed international application PCT/JP03/00394, which claimed priority of an earlier Japan application filed 18 January 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 31 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 18 July 2004.

On 16 July 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 01 December 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 03 February 2005, applicant filed an executed declaration along with the present petition under 37 CFR 1.182.

DISCUSSION

The given name of the third inventor is listed as "Tadao" in the declaration but is listed as "Naoki" in the published international application. Applicant has filed a petition under 37 CFR 1.182 along with the requisite petition fee. Applicant's explanation that the discrepancy was caused by a transliteration error is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 20 January 2003, and a date under 35 U.S.C. 371(c) of 03 February 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
PCT Legal Office

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

20 AUG 2004

#3

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2100 Pennsylvania Avenue NW
Washington, DC 20037-3202

In re Application of :
Patrick CHOLLET :
Application No.: 10/501,718 :
PCT No.: PCT/FR00/00916 :
Int. Filing Date: 11 April 2000 : DECISION ON
Priority Date: 29 April 1999 :
Attorney Docket No.: Q66643 : PETITION
For: DEVICE FOR TREATING A CONTAINER WITH MICROWAVE PLASMA :

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371. This decision is responsive to applicant's "Petition For Correct Serial Number and Series Assigned" filed in the United States Patent and Trademark Office (USPTO) on 06 May 2004. The petition is treated as a petition under 37 CFR 1.181. Applicant, in effect, requests acceptance of a copy of the U.S. national stage application for international application PCT/FR00/00916 in lieu of the original application filed in the USPTO on 24 October 2001. No petition fee is required.

On 24 October 2001, applicant filed the U.S. national stage application for international application PCT/FR00/00916 including a transmittal letter requesting entry into the national stage in the United States, accompanied by, *inter alia*, a check for the U.S. Basic National Fee of $890, the English translation of PCT/FR00/0091, drawing sheet and a preliminary amendment. The transmittal letter referenced attorney docket number Q66643 and identified PCT/FR00/00916. Applicant was advised by his postcard receipt that the papers were received in the USPTO on 24 October 2001 and assigned application number 09/959,393.

On 07 January 2001, without having received a Notification of Missing Requirements, applicant filed an executed declaration directed to PCT/FR00/00916, along with $130 surcharge for filing the oath or declaration after the 30 month period. The transmittal letter identified U.S. serial number 09/959,393. Thereafter, on 28 October 2003, applicant filed a status request.

Having received no office actions, applicant reviewed the USPTO P.A.I.R. system and discovered that U.S. application no.09/959,393 identified their attorney docket number (Q66643) and inventor Patrick Chollet, but did not identify the title and PCT number consistent with their 24 October 2001 filing. Furthermore, counsel discovered that 09/959,393 had issued as a patent!

On 06 May 2004, applicants filed the instant Petition requesting a correct serial number. The petition, in effect, requests acceptance of a copy of the national stage application as filed 24 October 2001, accompanied by a copy of the itemized postcard receipt with USPTO date-stamp 24 October 2001, indicating receipt of, *inter alia*, a national stage filing of PCT/FR00/00916, specification, 13 claims and one drawing sheet.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that the national stage filing of international application PCT/FR00/00916 comprising 11 sheets, including 13 claims, and a drawing sheet, and a preliminary amendment, among other documents, were deposited with the USPTO on 24 October 2001.

Applicant provided copies of the papers itemized on the post card receipt. The request for national stage entry was received on 24 October 2001, prior to the expiration of the 30 month deadline of 29 October 2001. The papers are assigned U.S. serial number 10/501,718.

The evidence submitted is sufficient to establish that this application was received in the USPTO on 24 October 2001. Accordingly, it is appropriate to accept the copy of the application as a replacement for the missing original application with a deposit date of 24 October 2001.

The declaration filed on 07 January 2002 was located in U.S. application number 09/959,393. A review of the declaration reveals that it identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b) are met.

CONCLUSION

The petition under 37 CFR 1.181 to reconstruct the file is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing as U.S. serial number 10/501,718. The 35 U.S.C. 371 date is **07 January 2002.**

All future correspondence with respect to the U.S. national stage filing of PCT/FR00/00916 should be directed to U.S. serial number **10/501,718.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

20 MAY 2005

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Edward J. Kessler
Sterne, Kessler, Goldstein & Fox P.L.L.C
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

In re Application of :
TRACHTMAN et al. :
Application No.: 10/501,736 : DECISION ON PETITION
PCT No.: PCT/GB03/00238 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 20 January 2003 :
Priority Date: 18 January 2002 :
Attorney Docket No.: 1487.0520000 :
For: WIRELESS TRANSMISSION WITH :
VARIABLE CODE RATE

The petition to revive under 37 CFR 1.137(b) filed 28 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

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21 MAR 2005

#6

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

In re Application of CARTIER-LACAVE et al	:	
U.S. Application No.: 10/501,738	:	
PCT Application No.: PCT/IB02/05698	:	
Int. Filing Date: 06 December 2002	:	DECISION
Priority Date Claimed: 06 December 2001	:	
Attorney Docket No.: 03715.0139	:	
For: USE OF CD34+ HEMATOPOIETIC PROGENITOR CELLS FOR THE TREATMENT OF CNS DISORDERS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 16 July 2004.

BACKGROUND

On 06 December 2002, applicant filed international application PCT/IB02/05698, which claimed priority of an earlier United States application filed 06 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 12 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 June 2004.

International application PCT/IB02/05698 became abandoned as to the United States for failure to timely pay the basic national fee.

On 16 July 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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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 the petition states, "the entire delay in filing the required fee, transmittal papers and declaration from the due date for entering the national phase until the filing of this petition, was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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 06 December 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 16 July 2004.

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

Bryan Tung
PCT Legal Examiner
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26 JUL 2005

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In re Application of	:	DECISION ON
DIETRICH et al	:	
Application No.: 10/501,750	:	
PCT No.: PCT/DE02/00027	:	
Int. Filing Date: 08 January 2002	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: 2002P00211WOUS	:	
For: IMPROVED DATA PROTECTION FOR	:	
POSITION DEPENDENT SERVICES	:	37 CFR 1.137(b)

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 12 July 2005. The petition fee of $1,500.00 under 37 CFR 1.17(m) has been charged to Deposit Account No.: 19-2179 as indicated in the faxed filed on 12 July 2005.

BACKGROUND

On 08 January 2002, this international application was filed. A copy of the intentional application was transmitted on 17 July 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 08 July 2004. This international application became abandoned with respect to the United States at midnight on 08 July 2004 for failure to pay the required basic national fee.

On 15 July 2004, applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the copy of the international application, and an executed declaration, and the national basic fee.

On 03 June 2005, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since applicant has failed to provide the Copy of the International Application by 30 months (37 CFR 1.495(b)(1)).

On 12 July 2005, 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, and an English translation of the international application, (2) the petition fee set forth in §1.17(m), and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **15 July 2004.**

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OFFICE OF PETITIONS

In re Application of :
Ali Tavassoli Et al. :
Application No. 10/501,755 : DECISION ON PETITION
Filed: January 09, 2003 : TO WITHDRAW
Attorney Docket No. 08407-017001 : 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, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Gerald Swiss 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 Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Jeffery S. Mann, PhD., J.D.
Morgan Lewis and Bockius
One Market, Spear Street Tower
San Francisco, California 94105

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OFFICE OF PETITIONS

YOUNG & THOMPSON
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In re Patent No. **7,313,484**
Issue Date: December 25, 2007
Application No. 10/501,767
Filed: January 29, 2008
Attorney Docket No. **1501-1260**

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed March 19, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "S.P.M. Instrument AB."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Stefan Lindberg, et al. to S.P.M. Instrument AB was recorded on March 5, 2009, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Christopher S. Haggerty appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Haggerty desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Haggerty, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision on petition should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER S. HAGGERTY**
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In re Patent No. **7,313,484**
Issue Date: December 25, 2007
Application No. 10/501,769
Filed: June 27, 2005
Attorney Docket No. **1501-1259**

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed March 19, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "S.P.M. Instrument AB."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Stefan Lindberg, et al. to S.P.M. Instrument AB was recorded on March 27, 2009, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Christopher S. Haggerty appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Haggerty desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Haggerty, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this decision on petition should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER S. HAGGERTY**
ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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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.
10/501,779	07/19/2004	Jonathan A Clark	36-1831	6587

23117 7590 06/05/2009

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

EXAMINER	
AILES, BENJAMIN A	
ART UNIT	PAPER NUMBER
2442	
MAIL DATE	DELIVERY MODE
06/05/2009	PAPER

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

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

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Chris Comunzis
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

MAILED

JUN 04 2009

TECHNOLOGY CENTER 2100

In re Application of:
CLARK et al.
Application No. 10/501,779
Filed: July 19, 2004
For: MONITORING OF NETWORK USAGE

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the Request for Withdrawal of Finality of Office Action filed on May 22, 2009. The Request has been treated as a petition under 37 C.F.R. § 1.181 to review the prematureness of Final rejection mailed on March 18, 2009.

The petition is **GRANTED**.

BACKGROUND

On September 8, 2008, a Final Office action was issued.
On November 20, 2008 an amendment after Final was submitted to correct the dependency of a claim and patentability arguments were presented to show how the claims differentiate from the references applied.
On December 31, 2008, the examiner issued an Advisory action stating that "the presented amendment to the claims would require further investigation to view their patentability over the prior art" and checked the box that the proposed amendment would require further consideration and/or search.
On January 8, 2009, Applicant filed a Request for Continued Examination and requested that the previously filed November 20, 2008 amendment be considered.
On March 18, 2009, the Examiner issued a "First Office Action Final".
On May 22, 2009, the Applicant filed a petition requesting the Withdrawal of the Final rejection.

RULES AND PROCEDURES

MPEP § 706.07(b) states in part that:

However, it would not be proper to make final a first Office action in a continuing or substitute application >or an RCE< where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was

denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

DECISION

A review of the file indicates new issues that would require further consideration and/or search box was checked on the Advisory Action mailed on 12/31/08. Therefore, based on the information provided on the Advisory Action, the Final Office Action issued by the Examiner was premature.

For the above stated reasons, the petition is **GRANTED.** The final Office action mailed March 18, 2009 is hereby vacated and a new Non-final Office action will be mailed in due course.

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

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

Mail Date: 04/21/2010

Applicant	: Eisaku Oshiman	: DECISION ON REQUEST FOR
Patent Number	: 7655456	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/501,797	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **925** 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 JUL 2004

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

In re Application of KAO et al :
U.S. Application No.: 10/501,798 :
PCT Application No.: PCT/US02/18088 :
Int. Filing Date: 07 June 2002 : DECISION
Priority Date Claimed: 08 June 2001 :
Attorney Docket No.: END041183PCTUS :
For: CONTROLLED RELEASE DOSAGE :
FORMS USING ACRYLIC POLYMER, :
AND PROCESS FOR MAKING THE SAME :

This is in response to applicant's petition under 37 CFR 1.137(b) filed 19 July 2004.

BACKGROUND

On 07 June 2002, applicant filed international application PCT/US02/18088, which claimed priority of an earlier United States application filed 08 June 2001. The thirty-month period for paying the basic national fee in the United States expired on 08 December 2003.

International application PCT/US02/18088 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 July 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), the filing of a continuation application under 35 U.S.C. 111 is a proper reply.

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

With regard to item (3), the petition states, "Applicant respectfully submits that the delay was unintentional as recited in 37 C.F.R. §1.137(b)(3)." 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.

International application PCT/US02/18088 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present U.S. continuation application number 10/501,798.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will thereafter be forwarded to the Office of Initial Patent Examination for further processing and review as an application filed under 35 U.S.C. 111.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

22 MAY 2006

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Robert L. Stearns
Howard & Howard Attorneys, PC
39400 Woodward Avenue
Suite 101
Bloomfield Hills, MI 48304-5151

In re Application of :
SALAMEH :
Application No.: 10/501,817 : DECISION ON PETITION
PCT No.: PCT/DE03/00350 :
Int. Filing Date: 07 February 2003 : UNDER 37 CFR 1.181
Priority Date: 26 February 2002 :
Attorney Docket No.: 71027-016 :
For: STATIC SEALING ELEMENT FOR :
ACOUSTICALLY DECOUPLED ADD-ON :
PIECES :

This decision is in response to applicant's facsimile correspondence of 04 May 2006; supplemented on 18 May 2006. The papers are being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application. No petition fee is required.

BACKGROUND

On 07 February 2003, applicant filed international application PCT/DE03/00350, which claimed a priority date of 26 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 September 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, 26 August 2004.

On 19 July 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an English translation of the international application and a preliminary amendment.

On 07 January 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 inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 17 January 2006, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/09) indicating that the present application was abandoned as to the United States of America for failure to respond to the "Notification of Missing Requirements" (Form PCT/DO/EO/905) mailed 07 January 2005.

On 04 May 2006, applicant filed the petition considered herein; which was supplemented on 18 May 2006.

DISCUSSION

Applicant has presently provided a legible copy of the receipt postcard which shows a USPTO date stamp, "OIPE JC110 Patent & Trademark Office JAN 27 2005" and clearly identifies in part: "Executed Declaration & Power of Attorney" as well as listing the applicant, application serial number and attorney docket number. The evidence is sufficient to establish that an executed declaration of the inventor was received in the USPTO on 27 January 2005. Applicant has present provided a copy of the documents filed on 27 January 2005. The filed declaration complies with 37 CFR 1.497 (a)-(b). In addition, a review of the fee record for this application shows payment of the appropriate surcharge on 27 January 2005. As such, it is proper to **GRANT** applicant's petition at this time.

CONCLUSION

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

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 17 January 2006 is hereby **VACATED**.

The application will be given an international filing date of 07 February 2003 under 35 U.S.C. 363 and a date of **27 January 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 (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

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

13 JAN 2005

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Aaron Waxler
Corporate Patent Counsel
Phillips Electronics North America Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
VAN GORKOM, et al.	:	
Application No.: 10/501,827	:	
PCT No.: PCT/IB03/00067	:	DECISION ON PAPERS
Int. Filing Date: 14 January 2003	:	
Priority Date: 22 January 2002	:	UNDER 37 CFR 1.42
Attorney Docket No.: NL 020035	:	
For: DISPLAY DEVICE COMPRISING A LIGHT GUIDE	:	

This decision is in response to applicant's declarations filed 19 July 2004 in the United States Patent and Trademark Office (USPTO). The response is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 January 2003, applicant filed the international application, which claimed a priority date of 22 January 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 July 2004.

On 19 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an Information Disclosure Statement; a first preliminary amendment; an assignment for recording and a combined declaration and power of attorney.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 19 July 2004 is executed by joint inventors Peter Duine, Johannes Marra, Petrus Bongaerts, Johannes Den Biggelaar and Roland Schuurbiers. In addition, the declaration has been executed by Henricus Kunnen as legal representative of the deceased joint

inventor, Gerardus van Gorkom. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration does not set forth the residence, post office address and country of citizenship of the legal representative. Under 37 CFR 1.497(b) the information must be provided for both the deceased inventor and his legal representative. In addition, the filed declarations fail to conform to the Manual of Patent Examining Procedure (MPEP). Section 201.03 explains:

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declarations contain six pages one of two and only a single page two of two. As such, it appears that the inventors were not provided with complete declarations for signature or only returned the signature pages. Either scenario renders the documents non-compliant.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **DENIED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) as detailed above. Any reconsideration request should include a cover letter entitled, "Renewed Request Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

#5

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Aaron Waxler
Corporate Patent Counsel
Phillips Electronics North America Corporation
P.O. 3001
Briarcliff Manor, NY 10510

In re Application of	:	
VAN GORKOM, et al.	:	DECISION ON RENEWED
Application No.: 10/501,827	:	
Filing Date: 19 July 2004	:	REQUEST FOR STATUS
Attorney Docket No.: NL 020035	:	
For: DISPLAY DEVICE COMPRISING A LIGHT GUIDE	:	UNDER 37 CFR 1.42

This decision is in response to the applicant's "Renewed Petition Under 37 CFR 1.42" filed 07 March 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 03 January 2005, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 07 March 2005, applicant filed the response considered herein. The response contains a certificate of mailing certifying a deposit date of 03 March 2005 and is considered timely filed.

DISCUSSION

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

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

The declaration submitted on 19 July 2004 was executed by Henricus Kunnen as legal representative to the estate of the deceased joint inventor, Gerardus van Gorkom. However, the residence, citizenship and mailing address for the deceased inventor was missing. Applicant has presently filed an executed declaration signed by the legal representative which provides the above information for both the deceased inventor and his legal representative. Applicant's presently filed declarations satisfy the other concerns detailed in the 03 January 2005 decision. Thus, it is

appropriate to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 14 January 2003 and a date of **07 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
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Fax: (571) 273-0459

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02 OCT 2006

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OLIFF & BERRIIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of :
SHIELDS, Paul William :
Application No.: 10/501,835 :
PCT No.: PCT/GB2003/004719 :
Int. Filing Date: 31 October 2003 : **DECISION**
Priority Date: 01 November 2002 :
Attorney Docket No.: 120252 :
For: A SYSTEM AND A METHOD FOR ACCESSING AND UPDATING INFORMATION STORED IN A CENTRAL LOCATION BY A REMOTE WORKER :

This is a decision on the petition under 37 CFR 1.181 filed 19 September 2006. No fee is required.

BACKGROUND

On 16 June 2004, applicant filed papers to enter the national stage of PCT/GB2003/004719.

On 05 August 2004, applicant purportedly filed an executed declaration for the subject application. These papers were not located in the file.

On 04 November 2004, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that an executed declaration was required.

On 15 December 2004, applicant submitted a declaration in compliance with 37 CFR 1.497(a) and (b).

On 05 January 2005, a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) was mailed indicating that applicant completed all 35 U.S.C. 371(c) requirements on 15 December 2004. A filing receipt indicating a 371(c) date of 15 December 2004 was also mailed.

On 26 January 2005, a request for correction of PALM records was filed.

On 26 September 2005, a request for a corrected filing receipt was mailed.

On 23 March 2006, a second request for a corrected filing receipt was mailed.

On 19 September 2006, applicant submitted via facsimile the subject petition along with a copy of an executed declaration and the date-stamped postcard receipt for documents purportedly filed 05 August 2004.

DISCUSSION

Applicant claims that a declaration was originally submitted on 05 August 2004 in the above-captioned application and requests a corrected filing receipt. These papers were not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant provided a copy of a date-stamped postcard receipt for documents submitted on 05 August 2004. The postcard receipt identified the application by the applicant name and docket number. The postcard receipt indicates that a "DEC, Desig 10 Attys" were received in the USPTO. The postcard receipt is stamped "OIPE AUG 05 2004" across its face. Moreover, applicant provided a copy of the documents filed 05 August 2004. This is a sufficient to meet the requirements of the MPEP.

Accordingly, applicant has provided *prima facie* evidence that an executed declaration was originally filed 05 August 2004.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is hereby **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 05 January 2005 are both **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for the mailing of a corrected Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4)

requirements of 05 August 2004.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

Mail Date: 05/06/2010

Applicant	: Noboru Murabayashi	: DECISION ON REQUEST FOR
Patent Number	: 7630613	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/501,840	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1297** 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 10/30/1862

DATE : 8/18/05

Paper No.: —

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6917006 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.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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, approved.

SPE — Art Unit 2832

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

02 MAR 2005

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

In re Application of
NAAMAN
Serial No.: 10/501,863
PCT App. No.: PCT/IL02/00624
Int'l Filing Date: 30 July 2002
Priority Date: 23 August 2001
Attorney Docket No.: 256182US2PCT
For: PERSONAL AIR CONDITIONING

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from due date for the reply until the filing of a grantable petition 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 has been provided. The required petition fee of $1330 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of 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 period is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

22 NOV 2004

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ALEXANDRIA, VA 22313-1450
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Don D. Cha
FAEGRE & BENSON
3200 Wells Fargo Center
1700 Lincoln Street
Denver, CO 80203-4532

In re Application of:	:	
STRAUSS, Steven, H., et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/501,884	:	REVIVE ABANDONED
PCT No.: PCT/US02/20973	:	APPLICATION UNDER 37
International Filing Date: 27 June 2002	:	CFR 1.137(b)
Priority Date: 29 June 2001	:	
Attorney's Docket No.: 296211-04US	:	
For: EXTRACTION AND RECORVERY OF IONS FROM A SOLUTION	:	

The petition to revive under 37 CFR 1.137(b) filed 14 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an executed 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
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Jack Barufka
Pillsbury Winthrop LLP
PO Box 10500
McLean VA 22102

In re Application of	:	
BAYAR et al.	:	
Application No.: 10/501,889	:	DECISION ON
PCT No.: PCT/GB02/05293	:	
Int. Filing Date: 25 November 2002	:	PETITION UNDER
Priority Date: 27 November 2001	:	
Attorney Docket No.: 011765-0310658	:	37 CFR 1.137(b)
For: WAVEGUIDE AND METHOD OF MANUFACTURE	:	

This decision is in response to applicants' submission filed 20 July 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 November 2002, applicant filed international application PCT/GB02/05293, which designated the United States and claimed a priority date of 27 November 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 05 June 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 May 2004.

On 20 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 20 July 2004.

As to item (2), applicant submitted the petition fee on 20 July 2004.

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

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

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
Legal Administration
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/5/07

Paper No.: —

TO SPE OF : ART UNIT 3654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/501922 Patent No: 7/91973 B2

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3653
Art Unit

PTO/SB/44 (05-07)
Approved for use through 05/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. :7,191,973 B2

APPLICATION NO.: 10/501,922

ISSUE DATE :March 20, 2007

INVENTOR(S) : Harald Karl Gretsch and Reinhard Georg Gross

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:

Col. 9 44

~~Claim 1~~, Line ~~17~~, after "a" change "serected" to --selected--; and

Col. 11 49

~~Claim 44~~; Line ~~14~~, after "function" insert --to--.

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

Douglas R. Hanscom
Jones, Tullar & Cooper, P.C.
P.O. Box 2266, Eads Station
Arlington, VA 22202

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

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

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
YAMAGUCHI, Kunio, et al.	:	
U.S. Application No.: 10/501,934	:	DECISION ON PETITION
PCT No.: PCT/JP03/00596	:	UNDER 37 CFR 1.182
International Filing Date: 23 January 2003	:	
Priority Date: 24 January 2002	:	
Attorney's Docket No.: 256082US2XPCT	:	
For: PRINTED CIRCUIT-BOARD, ELECTRONIC	:	
PART HAVING SHIELD STRUCTURE, AND	:	
RADIO COMMUNICATION APPARATUS	:	

This decision is issued in response to applicants' "Response to Notification Of Defective Response" filed on 25 May 2005, which has been treated as a petition under 37 CFR 1.182 to correct the name of the inventor identified in the international application as Atsushi TSUBOI to Atsushi TANAKA, the name listed on the declaration filed 21 March 2005. Deposit Account No. 15-0030 will be charged the required petition fee.

BACKGROUND

On 23 January 2003, applicants filed international application PCT/JP03/00596 which claimed a priority date of 24 January 2002 and which designated the United States. On 31 July 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., 24 July 2004.

On 21 July 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 translation of the international application into English.

On 26 January 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 21 March 2005, applicants filed a "Response To Notice Of Missing Requirements" which was accompanied by an executed declaration. However, the third inventor named on the declaration, identified on the published international application as Atsushi TSUBOI, was identified on the declaration as Atsushi TANAKA.

On 29 March 2005, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) indicating that the declaration was unacceptable based on the inconsistency in the third inventor's name.

On 25 May 2005, applicants filed the "Response To Notification Of Defective Response" considered herein (with required extension fee). This Response includes a statement from the inventor regarding the change of name. This response has been treated as a petition under 37 CFR 1.182 to correct the inventor's name of record herein.

DISCUSSION

Section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the surname of the relevant inventor in the published international application is "TSUBOI" while the second given name for this inventor listed in the declaration (and stated to be correct) is "TANAKA." This is more than a mere typographical error or a phonetic misspelling of the applicant's name.[1] Accordingly, the present Response has been treated as a petition under 37 CFR 1.182 to correct the name of the fourth inventor. For such a petition to be grantable, MPEP § 605.04(c) states that "the petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order."

Here, applicants' submission included the authorization to charge Deposit Account No. 15-0030 for required fees. Based on this authorization, Deposit Account No. 15-0030 will be charged the requisite petition fee of $400, satisfying the petition fee requirement. As for the affidavit requirement, applicants have submitted a declaration from the inventor regarding the name change. This declaration states that the inventor's surname was changed, and that the name listed in the declaration ("TANAKA") is the correct name. However, the declaration does not state "the procedure whereby the change of name was effected" (i.e., marriage, etc.), nor is it accompanied by a "certified copy of the court order." The declaration of Atsushi TANAKA therefore does not satisfy the requirements for a grantable petition.

Because the statement provided does not satisfy the requirements for a grantable petition, correction of the inventor's name on the present record would be inappropriate.

---

[1] This is confirmed by the present submission, in which the inventor confirms that the name has been changed.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice. The declaration submitted by applicants on 21 March 2005 therefore remains defective for failure to properly identify the inventors of record..

Any request for reconsideration on the merits must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any such response must include the statement required for a grantable petition under 37 CFR 1.182 regarding the change of the inventor's name and the "procedure whereby the change of name was effected," as discussed above.

Failure to file a proper response in a timely manner will result in **ABANDONMENT** of the application. Extensions of time are available under 37 CFR 1.136(a).

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

Richard M. Ross
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23 SEP 2005

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of	
YAMAGUCHI, Kunio, et al.	
U.S. Application No.: 10/501,934	DECISION ON RENEWED
PCT No.: PCT/JP03/00596	PETITION UNDER
International Filing Date: 23 January 2003	37 CFR 1.182
Priority Date: 24 January 2002	
Attorney's Docket No.: 256082US2XPCT	
For: PRINTED CIRCUIT-BOARD, ELECTRONIC PART HAVING SHIELD STRUCTURE, AND RADIO COMMUNICATION APPARATUS	

In a decision mailed by this Office on 10 June 2005, applicants' petition to correct the name of the inventor identified in the international application as Atsushi TSUBOI to Atsushi TANAKA was dismissed without prejudice for failure to satisfy the requirements for a grantable petition. Specifically, the petition did not state "the procedure whereby the change of name was effected" (i.e., marriage, etc.), and it was not accompanied by a "certified copy of the court order" relating to the name change.

On 12 September 2005, applicants filed the renewed petition considered herein, with required extension fee. The renewed petition includes a statement that the change in the inventor's name resulted from the inventor being adopted. The submission includes a copy of a Japanese court order (with English translation) confirming the adoption. These materials, in combination with the previous submission, satisfies the requirements of a grantable petition.

CONCLUSION

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

The name of the inventor identified in the international application as Atsushi TSUBOI is corrected to Atsushi TANAKA

Based on the correction of the inventor's name, the declaration submitted by applicants on 21 March 2005 can now be accepted 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 21 March 2005.

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#7

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Commissioner for Patents
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14 AUG 2006

MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

In re Application of
Smith et al.
Application No. 10/501,936
PCT No.: PCT/IB03/00636
Int. Filing Date: 24 January 2003
Priority Date: 29 January 2002
Atty. Docket No.: 121939-04298105
For: Sintering Ultrahigh Molecular Weight Polyethylene

COMMUNICATION

This is in response to the "Petition To Withdraw Notification Of Abandonment" filed on 19 May 2006.

BACKGROUND

This international application was filed on 24 January 2003, claimed an earliest priority date of 29 January 2002, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 07 August 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 29 July 2004. Applicants filed, *inter alia*, the basic national fee on 21 July 2004.

On 21 October 2005, 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) and a surcharge under 37 CFR 1.492(h).

On 01 May 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 21 October 2005.

DISCUSSION

Counsel requests withdrawal of the holding of abandonment on the basis that a response to the Notification of Missing Requirements was filed prior to the expiration of the period for response as extended under 37 CFR 1.136(a). Review of the record reveals that the instant petition was accompanied by a petition and fee for a five-month extension of time under 37 1.136(a), such that the period for response was extended to 22 May 2006 (since 21 May 2006 was a Sunday). As such, the Notification of Abandonment mailed on 01 May 2006 was premature, and it is hereby **VACATED**.

CONCLUSION

The petition for withdrawal of the holding of abandonment 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 **19 May 2006**.

Leonard Smith
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Office of PCT Legal Administration

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NEW YORK, NEW YORK 10020

In re Application of
LIPOVSKII et al.
Application No.: 10/501,953
PCT No.: PCT/IL03/00055
Int. Filing Date: 22 January 2003
Priority Date: 22 January 2002
Attorney Docket No.: P-7008-US
For: POTASSIUM FREE ZINC SILICATE GLASSES FOR ION-EXCHANGE PROCESSES

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Petition to Add Inventor(s) Under 37 CFR 1.48", filed on 21 July 2004 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Eli Arad as inventor in the above referenced application. The requisite $130 petition fee was paid. The petition is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 21 July 2004, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. Applicant also filed a petition under 37 CFR 1.48 for correction of inventorship, to add Eli Arad as an inventor. In addition to the $130 petition fee, Petitioner provided the statement of the inventor Mr. Arad in support of the correction of inventorship under 37 CFR 1.497(d). Petitioner indicates that "the consent of the assignee is not required insofar as no assignment has yet been executed." An declaration executed by the joint inventors was not submitted.

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship 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(s).

37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application

occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(I); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicants provided a statement, signed by Eli Arad, stating that "My name, ARAD, Eli, was inadvertently omitted from the list of inventors, without deceptive intent on the part of the undersigned". This statement satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 has been paid, satisfying Item (2) above.

With regard to Item (3), a review of the application file reveals that an assignment of assignors interest was filed with the USPTO on 29 December 2004. Applicant has not provided a "Written Consent of Assignee in Correction of Inventorship under 37 CFR 1.497(d)(3)" and a statement under 37 CFR 3.73(b) consenting to the addition of Eli Arad as an inventor in this application.

Accordingly, applicant has not met all of the requirements to add Eli Arad as co-inventor in the above-identified international application.

CONCLUSION

The request under 37 CFR 1.497(d) to add Eli Arad is **DISMISSED WITHOUT PREJUDICE**. Applicant has **TWO (2)** months to file a response. Extensions of time may be obtained under 37 CFR 1.136(a). The application will be held in the PCT Legal Office to await the proper reply.

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

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14 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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EITAN, PEARL, LATZER & COHEN ZEDAK, LLP
10 ROCKEFELLER PLAZA
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NEW YORK, NEW YORK 10020

In re Application of
LIPOVSKII et al.
Application No.: 10/501,953
PCT No.: PCT/IL03/00055
Int. Filing Date: 22 January 2003
Priority Date: 22 January 2002
Attorney Docket No.: P-7008-US
For: POTASSIUM FREE ZINC SILICATE GLASSES FOR ION-EXCHANGE PROCESSES

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to the Decision on Request under 37 CFR 1.497(d) & Petition for Four Month Extension of Time", filed on 02 August 2005 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Eli Arad as inventor in the above referenced application.

BACKGROUND

On 21 July 2004, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee and a petition under 37 CFR 1.48 for correction of inventorship, to add Eli Arad as an inventor. In addition to the petition fee, Petitioner provided the statement of the inventor Mr. Arad in support of the correction of inventorship under 37 CFR 1.497(d). Petitioner indicated that "the consent of the assignee is not required insofar as no assignment has yet been executed." An declaration executed by the joint inventors was not submitted.

On 02 February 2005, a decision was mailed to applicant indicating that the "Written Consent of Assignee in Correction of Inventorship under 37 CFR 1.497(d)(3)" and a statement under 37 CFR 3.73(b) consenting to the addition of Eli Arad as an inventor in this application was necessary to add an inventive entity.

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship 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(s).

Items (1) and (2) have previously been satisfied.

With regard to Item (3), applicant has provided the "Written Consent of Assignee in Correction of Inventorship under 37 CFR 1.497(d)(3)" and a statement under 37 CFR 3.73(b)

consenting to the addition of Eli Arad as an inventor in this application.

Accordingly, applicant has now met all of the requirements of 37 CFR 1.497(d) to add Eli Arad as co-inventor in the above-identified international application.

CONCLUSION

The request under 37 CFR 1.497(d) to add Eli Arad is **GRANTED**.

As noted in the 02 February 2005 decision, a declaration, executed by the inventors and in compliance with 37 CFR 1.497(a) and (b) has not been submitted and is required.

The application is being forwarded to the United States Designated/Elected Office for further processing. A Notification of Missing Requirements will issue indicating that an oath or declaration, executed by the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period is required.

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BROWN & MICHAELS, PC
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ITHACA NY 14850

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OFFICE OF PETITIONS

In re Application of	:	
John F. Schickler	:	
Application No. 10/501,973	:	DECISION ON PETITION
Filed: July 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RSCH-1US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 11, 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 **DISMISSED**.

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 does not include a statement signed by the applicant or a copy of the applicant's driver's license, birth certificate or passport proving that he is 65 years of or older. The applicant's representative cannot sign a statement on behalf of the applicant unless it is accompanied with one of the above items proving that the applicant is 65 years of age older.

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

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

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

By FAX:
(571) 273-8300

Telephone inquiries concerning this decision should be directed to 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 3693 for action in its regular turn.

Terri Williams
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

BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

COPY MAILED
NOV 2 6 2008

In re Application of	:	
John F. Schickler	:	
Application No. 10/501,973	:	DECISION ON PETITION
Filed: July 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RSCH-1US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed October 7, 2008, 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 statement from the attorney of record certifying that he has proof that the applicant 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 3686 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

12 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L STREET, NW. SUITE 850
WASHINGTON, DC 20036

In re Application of
VAN GIEZEN
U.S. Application No.: 10/501,989
PCT Application No.: PCT/NL02/00659
Int. Filing Date: 17 October 2002
Priority Date: 17 October 2001
Attorney Docket No.: APV31690
For: METHOD FOR PRODUCING A CONTAINER FOR A PRESSURIZED FLUID, AND CONTAINER OF THIS TYPE

DECISION

This is in response to applicant's "RESUBMISSION OF NEW U.S. NATIONAL PHASE APPLICATION AND REQUEST FOR FILING DATE" filed 21 July 2004 in the United States Patent and Trademark Office. The petition is **MOOT**.

On 17 October 2002, applicant filed international application No. PCT/NL02/00659, which claimed a priority date of 17 October 2001 and which designated the United States.

On 15 April 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 21 July 2004, applicants filed the instant petition along with a copy of the papers filed on 15 April 2004, requesting the 15 April 2004 filing date be applied to this national stage application. The petition is moot as the application papers filed on 15 April 2004 are located in the USPTO and assigned U.S. application number 10/501,989.

The application is being forwarded to the US Designated/Elected Office for further processing as the national stage of PCT/NL02/00659, assigned U.S. serial number 10/501,989.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571)272-3286

17 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Eckert Seamans Cherin & Mellott, LLC
US Street Tower
600 Grant Street
44th Floor
Pittsburgh PA 15219

In re Application of Dale READ Application No.: 10/502,003 PCT No.: PCT/GB02/04691 Int. Filing: 18 October 2002 Priority Date: 18 October 2001 Attorney Docket No.:063030-00073 For: AUTO MOTION: ROBOT GUIDANCE FOR MANUFACTURING	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 July 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 has been 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 a Notification of Missing Requirements indicating that the oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

16 DEC 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

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

ECKERT SEAMANS CHERIN & MELLOTT
US Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

In re Application of:	:	
READ, Dale	:	DECISION ON PETITION TO
U.S. Application No.: 10/502,004	:	REVIVE ABANDONED
PCT No.: PCT/GB02/05219	:	APPLICATION UNDER 37
International Filing Date: 20 November 2002	:	CFR 1.137(b)
Priority Date: 21 November 2001	:	
Attorney's Docket No.: 063030-00074	:	
For: 3D VIRTUAL MANUFACTURING PROCESS	:	

The petition to revive under 37 CFR 1.137(b) filed19 July 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).

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements (Form PCT/DO/EO/905) 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

United States Patent and Trademark Office

20 MAY 2005

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

Eckert Seamans Cherin & Mellott, LLC
US Steel Tower
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

In re Application of :
Read :
Application No.: 10/502,006 :
PCT No.: PCT/GB02/05810 :
Int. Filing Date: 19 December 2002 : DECISION
Priority Date: 27 December 2001 :
Attorney Docket No.: 063030-00075 :
For: Program Robots With Off-Line Design :

The petition to revive under 37 CFR 1.137(b) filed 19 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $1080.00 was provided. The required petition fee of $1330.00 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 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 inventor and a surcharge under 37 CFR 1.492(I).

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

10 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#5

Finnegan, Henderson, Farabow, Garrett & Dunner
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of	:	
TALTON	:	DECISION ON
Application No.: 10/502,022	:	
PCT No.: PCT/US03/00040	:	PETITION
Int. Filing Date: 22 January 2003	:	
Priority Date: 22 January 2002	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 08100.0019	:	
For: METHOD OF PULSE LASER	:	
ASSISTANCE SURFACE MODIFICATION	:	

This application is before the PCT Legal Staff for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 22 January 2003, applicant filed international application PCT/US03/00040, which claimed priority of an earlier US application filed 22 January 2002. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2004.

On 21 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An oath or declaration as required by 35 U.S.C. 371(c)(4) was not filed.

On 21 October 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating an oath or declaration of the inventors and the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e) were required. The notification set a two-month time limit in which to respond.

DISCUSSION

A review of the Notification of Missing Requirements reveals that it was mailed to the USPTO. Accordingly, the Notification is hereby VACATED.

CONCLUSION

This application is being forwarded to the National Stage Processing Branch of the International Division for treatment in accordance with this decision, that is for preparation and mailing of the new Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

October 2005

SCHOLL PATENT AGENCY, INC.
800 MAIN ST, #308
HOLDEN, MA 01520

OCT 14 2005

In re Application of:
THOMASZ HANZLIK
Serial No.: 10/502,026
Filed: July 20, 2004
Docket: LHUD-00301-NUS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on July 20, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made, including the search areas; c) a statement that all claims are directed to a single invention, and an intent to elect without traverse should election be required; and d) a detailed discussion of each of a number of references submitted as being pertinent to patentability, pointing out how the claimed subject matter is distinguishable over those references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a petition with the following showing is required: a) a petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the (non-US) references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) – (e) are considered to have been met.

For the above-mentioned reasons, the petition is granted. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII).

The delay in considering the petition and issuance of this decision is regretted.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Christophe Delesalle	: DECISION ON REQUEST FOR
Patent Number	: 7636375	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/502,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 13 2010

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of	:	
Delesalle et al.	:	DECISION ON REQUEST
Patent Number: 7,636,375	:	FOR RECONSIDERATION OF
Issue Date: 12/22/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/502043	:	and
Filing or 371(c) Date: 01/19/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 08-983-WO-US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 23, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 6, 2007, and ends on December 7, 2008, the day before the RCE was filed, and is 490 (not 491) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 878, not 879 days.

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

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

The application 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 **eight hundred seventy-eight (878) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,636,375 B2

DATED : **December 22, 2009**

INVENTOR(S) : Delesalle 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 462 days.

Delete the phrase "by 462 days" and insert – by 878 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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MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of	:	CORRECTED
Delesalle et al.	:	DECISION ON REQUEST FOR
Patent Number: 7,636,375	:	RECALCULATION of PATENT
Issue Date: 12/22/2009	:	TERM ADJUSTMENT IN VIEW
Application No. 10/502043	:	OF WYETH AND NOTICE OF INTENT TO
Filing or 371(c) Date: 01/19/2005	:	ISSUE CERTIFICATE OF CORRECTION
Attorney Docket Number: 08-983-WO-US	:	

This is a decision correcting the patent term adjustment of 1294 days indicated in the DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION, mailed April 21, 2010, to eight hundred seventy-eight (878) days.

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

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred seventy-eight (878) days**.

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

/Derek L. Woods/

Derek L. Woods/
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,636,375 B2

DATED : **December 22, 2009**

INVENTOR(S) : Delesalle 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 1294 days.

Delete the phrase "by 1294 days" and insert – by 878 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 21, 2008

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/502056 Patent No.: 7126035 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/Yvonne Eyler/ 1621
SPE **Art Unit**

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **February 21, 2008**

TO SPE OF : ART UNIT **1621**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/502056** Patent No.: **7126035 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.

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

Comments: _____

_____

_____

_____

_____

/Yvonne Eyler/ **_1621__**
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

12 AUG 2008

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

Kirschstein Ottinger Israel & Schiffmiller
489 Fifth Avenue
New York NY 10017

In re Application of	:	
ROSENBERG, et al.	:	
Application No.: 10/502,079	:	DECISION ON PETITION
PCT No.: PCT/IB03/00513	:	
Int. Filing Date: 23 January 2003	:	UNDER 37 CFR 1.181
Priority Date: 23 January 2002	:	
Attorney Docket No.: P/63299	:	
For: HOLLOW WAVEGUIDE DIRECTIONAL COUPLER	:	

This decision is in response to applicant's correspondence filed 06 August 2008 in the United States Patent and Trademark Office (USPTO) which includes a copy of a petition to withdraw a holding of abandonment originally filed 15 June 2006. Both petitions are being treated pursuant to 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 23 January 2003, applicant filed international application PCT/IB03/00513, which claimed priority of an earlier application filed 23 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2004. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 July 2004.

On 21 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an Information Disclosure Statement.

On 16 November 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. Applicant was afforded two months to file a proper response.

On 12 June 2006, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 16 November 2004 within the time period set therein and that above-identified application was abandoned as to the United States.

On 06 August 2008, applicant filed the present petition indicating that a petition to withdraw the holding of abandonment had been filed on 15 June 2006 arguing that a response to the Form PCT/DO/EO/905 had been filed on 13 January 2005.

DISCUSSION

I. Proof of filing of 15 June 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. Here, applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing filed on 15 June 2005. The postcard identifies the application by serial number, title, applicant and attorney docket number. Among the items listed on the receipt is: "Request to Withdraw notice of Abandonment Under 37 C.F.R. §1.8(b) with supporting documents." The receipt is stamped "OIPE IAP65 Patent & Trademark Office JUN 15 2006." The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed the petition under 37 CFR 1.181 on 15 June 2006.

II. Petition to Withdraw Holding of Abandonment

An examination of the petition finds that applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing and certification that the copy currently provided is a true and complete copy of the papers filed on 13 January 2005. The postcard identifies the application by serial number, title, applicant and attorney docket number. Among the items listed on the receipt is: "Late Filing of Declaration, Signed Declaration." The receipt is stamped "OIPE JC56 Patent & Trademark Office JAN 13 2005." The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed an executed declaration and power of attorney on 13 January 2005. In addition, a review of the fees records for this application show payment of the $130.00 surcharge of 13 January 2005; thus, it is proper to grant applicant's petition to withdraw the holding of abandonment for failure to file a response.

CONCLUSION

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

The Form PCT/DO/EO/909 mailed 12 June 2006 is hereby **VACATED**.

The application has an international filing date of 23 January 2003 under 35 U.S.C. 363 and will be given a date of **13 January 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 (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a filing receipt indicating the correct 371 date as detailed above.

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

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Takeuchi & Kubotera, LLP
Suite 202
200 Daingerfield Rd.
Alexandria VA 22314

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APR 15 2008

OFFICE OF PETITIONS

In re Application of :
Gunter Petz et al. :
Application No. 10/502,094 : ON PETITION
Filed: July 22, 2004 :
Attorney Docket No. P-0401T :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 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 Restriction Requirement mailed May 22, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 23, 2006. The Notice of Abandonment mailed June 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election/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 1724 for appropriate action on the concurrently filed election/amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

02 DEC 2004

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Richard H. Tushin
Dykema Gossett, PLLC
Third Floor West, Franklin Square
1300 I Street, N.W.
Washington, D.C. 20005-3353

In re Application of :
ISHERWOOD, et al. :
Application No.: 10/502,097 : DECISION ON PETITION
PCT No.: PCT/GB03/00218 :
Int. Filing Date: 22 January 2003 : UNDER 37 CFR 1.181
Priority Date: 25 January 2002 :
Attorney Docket No.: 66307-313-7 :
For: IMPROVEMENTS IN METHODS OF :
MANUFACTURING SUBSTRATES :

This decision is in response to applicant's "Response to Notification of Missing Requirements" filed 23 November 2004 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 22 January 2003, applicant filed international application PCT/GB03/00218, which claimed priority of an earlier application filed 25 January 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 25 July 2004.

On 22 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 15 November 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.

On 23 November 2004, applicant filed the present petition under 37 CFR 1.181 indicating that a declaration of the inventors was filed on 26 July 2004.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by title, inventors and docket number. Among the items listed on the receipt is "Submsn of dec/Filing Fees" The receipt is stamped "OIPE JC25 Patent & Trademark Office JUL 26 2004" across its face. Thus, it is clear that applicant filed an executed declaration on 26 July 2004. In addition, applicant has attested that the declaration filed 23 November 2004 is a true and complete copy of the original filed 26 July 2004. For these reasons it is proper to grant applicant's petition at this time and accept the copy of the declaration filed 23 November 2004 as a substitute for the declaration originally filed 26 July 2004. As the declaration was provided prior to the expiration of thirty months from the priority date, no surcharge is required. (25 July 2004 being a Sunday, the filing of 26 July 2004 is considered within the thirty month period.)

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

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

The Form PCT/DO/EO/905 mailed 15 November 2004 is hereby **VACATED**.

This application will be given an international application filing date of 22 January 2003 and a date of **26 July 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

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OCT 21 2009

OFFICE OF PETITIONS

In re Application of

Michael Ziegler :

Application No. 10/502,130

: DECISION ON PETITION

Filed: August 19, 2005

:

Attorney Docket No. 82292

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 16, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 15, 2009. A Notice of Abandonment was mailed on September 15, 2009.

The response to the non-final Office action filed September 14, 2009, is noted.

The application is being forwarded to Technology Center 3=1700, GAU 1797 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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QUARLES & BRADY LLP
411 E WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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JUL 14 2008

In re Application of :
Cornell, et al. :
Application No. 10/502,131 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 130912.90829 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 12, 2008.

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

The application was held abandoned due to failure to timely file a reply to the non-final Office action mailed November 1, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on February 2, 2008. The Office mailed a Notice of Abandonment on May 14, 2008.

A review of the application file reveals the presence of an Amendment filed May 6, 2008. The Amendment was made timely by including a Certificate of Mailing dated April 29, 2008 and by including a request for a three month extension of time.

The $1,050 fee for a three month extension of time has been charged to Deposit Account No. 50-2638, as authorized.

The matter is being forwarded to Group Art Unit 2841 for consideration of the Amendment filed May 6, 2008 (Certificate of Mailing dated April 29, 2008).

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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McCarter & English LLP
265 Franklin Street
Boston MA 02110

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JUL 31 2009

OFFICE OF PETITIONS

In re Application of :
Caswell : PATENT TERM ADJUSTMENT
Application No. 10/502,148 :
Filed: March 2, 2005 :
Atty Docket No. CPB-001US :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. §1.705(D)," filed May 27, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR §1.705(b).

Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand two hundred twenty-four (1,224) days, not six hundred seventy-two (672) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). 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 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].

Applicant does not dispute the Office's initial calculation of the applicant delay under 37 CFR 1.704(a). However, applicant notes that a supplemental IDS was filed after the mailing of a Notice of Allowance. Thus applicant states that a further reduction is in order. Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any

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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.

applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance. It is premature at this time to address reductions under 37 CFR 1.704(c)(10). They should be discussed in any future filed request for reconsideration under 37 CFR 1.705(d).

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

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APR 23 2010

OFFICE OF PETITIONS

McCarter & English LLP
265 Franklin Street
Boston MA 02110

In re Patent of Caswell
Patent No. 7,581,488
Issue Date: September 1, 2009
Application No. 10/502,148
Filed: March 2, 2005
Atty Docket No. CPB-001US

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

This is a decision on the petition filed on October 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 one hundred seventy-three (1,173) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventy-three (1,173) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred seventy-three (1,173)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,581,488 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Michael R. Caswell

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 658 days

Delete the phrase "by 658 days" and insert – by 1,173 days--

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BRIARCLIFF MANOR NY 10510

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OFFICE OF PETITIONS

In re Application of :
Frank Van Rens :
Application No. 10/502,154 :
Filed: July 20, 2004 :
Attorney Docket No. NL020062 :

ON PETITION

This is a decision on the petition, filed October 17, 2005, under 37 CFR 1.313(a) to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

37 CFR 1.313(a) states in part:

> "Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in 1.17(h) and a showing of good and sufficient reason why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition includes the requisite petition fee and submission of an information disclosure statement.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an information disclosure statement (IDS) with the petition does not make withdrawal of the application from issue necessary. There were other avenues open to applicant to have the IDS considered other than by way of a petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> "A petition under this section is not required if a request for continued examination under 1.114 is filed prior to payment of the issue fee."

The filing of an RCE under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. For example, see MPEP 706.07(h)(II).

The application is being forwarded to the supervisory patent examiner for consideration of the information disclosure statement under 37 CFR 1.97(d).

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

Karen Creasy

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

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

Mail Date: 08/02/2010

Applicant	: Hiroaki Ogawa	: DECISION ON REQUEST FOR
Patent Number	: 7653541	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/502,169	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1135** 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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APR 23 2010

OFFICE OF PETITIONS

In re Patent No. 7371865	:	
Acemoglu et al.	:	DECISION ON REQUEST
Issue Date: 05/13/2008	:	FOR RECONSIDERATION OF
Application No. 10/502177	:	PATENT TERM ADJUSTMENT
Filed: 07/21/2004	:	and
Attorney Docket No. PC/4-32342A	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed on June 13, 2008. Patentees request that the Patent Term Adjustment for the above-identified patent be increased by 49 days from 315 days to 364 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred sixty-four (364) days.

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,371,865. The instant request for reconsideration filed on June 13, 2008 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 315 days. Patentees contend that the reduction in patent term adjustment of 49 days for the filing of a miscellaneous incoming letter after the mailing of the notice of allowance, is incorrect and should be removed. Specifically, patentees assert that the letter filed on March 26, 2008 was a power of attorney and was

not a failure to engage in reasonable efforts to conclude processing or examination.

The OG Notice[1] states that:

> Accordingly, the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee 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, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10).

Patentees are correct. A review of the official file reveals that this letter was in fact a power of attorney.

Accordingly, the subject letter is not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. Patentees should not have been

---

[1] See Revision of Patent Term Extension and Patent Term Adjustment Provisions, 1282 O.G. 100, 69 Fed. Reg. 21704, April 22, 2004.

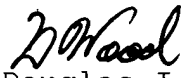
assessed the 49 days of applicant delay for the filing of the "Additional Power of Attorney" filed on March 26, 2008.

In view thereof, the patent term adjustment indicated on the patent should be 364 days (455 days of Office delay and 91 (140 - 49) days of applicant delay).

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

The application is being referred to the Certificate of Correction Branch for issuance of a certificate of correction 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 SIXTY-FOUR (364) days.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,731,865 B2

DATED : May 13, 2008

INVENTOR(S) : Acemoglu 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 (315) days

Delete the phrase "by 315 days" and insert – by 364 days--

SPE: D. Gray

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/07

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/502,201 Patent No.: 7015938

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE 2852 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW Sep-07

MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS NY 10606

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
Minoretti et al. : DECISION ON PETITION
Application Number: 10/502213 :
Filing Date: 09/17/2004 :
Attorney Docket Number: GRIMM :
235-KFM :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 14 June, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 17 February, 2007, for failure to file a timely reply to the final Office action mailed on 16 November, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply

---

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

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

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

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

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

were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 18 June, 2007.

The petition lacks the required reply. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on 14 June, 2007, does not place the case in *prima facie* condition for allowance. An Advisory Action Before the Filing of An Appeal Brief is enclosed for petitioners' information.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The extension request filed on 14 June, 2007, was submitted after 16 May, 2007, which was the last day of the three (3) month shortened statutory period for reply to the Office action mailed on 16 November, 2006, and therefore is unnecessary. The extension of time fee paid on 14 June, 2007, will be credited to counsel's deposit account as authorized.[3]

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

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

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

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

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[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

[3] Additionally, as a three (3) month shortened statutory period was set by the final Office action, a maximum three (3) month extension of time could be obtained to respond to the final Office action.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/502,213	**Applicant(s)** MINORETTI ET AL.	
	Examiner Ralph A. Lewis	**Art Unit** 3732	

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

THE REPLY FILED 14 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 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 Continuation Sheet*. (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: *10-15 and 18-23*.
   Claim(s) rejected: *1-9,16 and 17*.
   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: _____.

Ralph A. Lewis
Primary Examiner
AU 3732

Continuation of 3. NOTE: The proposed amendment to claim 1 changes the claimed invention from an "appliance" to a "kit of parts," adds a second connecting means to the first module and adds a paragraph of previously unclaimed material to the claim. While the proposal may be allowable, it has not been previously searched or considered in view of the cited prior art .

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MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS NY 10606

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Minoretti et al.	:	DECISION ON PETITION
Application Number: 10/502213	:	
Filing Date: 09/17/2004	:	
Attorney Docket Number: GRIMM 235-KFM	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 17, 2007, for failure to file a timely reply to the final Office action mailed on November 16, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on June 18, 2007. The petition filed on June 14, 2007, was dismissed on September 13, 2007.

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

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

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

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

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

Petitioners have filed a Request for Continued Examination (RCE) and have indicated that the previously submitted amendment is the reply required by 37 CFR 1.114.

The application will be referred to Technology Center Art Unit 3732 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 27, 2006

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/502215 Patent No.: 7,128,345 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: _____

Daniel P Stodola — **SPE**

3679 — **Art Unit**

26 AUG 2005

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

John R. Harris, Esq.
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
Atlanta, Georgia 30326-1044

In re Application of	:	DECISION ON
WRIGHT, Andrew	:	
Application No.: 10/502,231	:	
PCT No.: PCT/GB03/00287	:	
Int. Filing Date: 23 January 2003	:	PETITION UNDER
Priority Date: 23 January 2002	:	
Attorney's Docket No.: 12654-45895	:	
For: DISPENSING DEVICE	:	37 CFR 1.137(b)

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 23 March 2005.

BACKGROUND

On 23 January 2003, this international application was filed, claiming an earliest priority date of 23 January 2002. A copy of the intentional application was transmitted on 31 July 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 23 July 2004.

On 22 July 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 national basic fee and an executed declaration or oath was not provided at such time.

On 16 February 2005, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since the application was abandoned for failure to pay the basic national fee by 30 months.

On 23 March 2005, applicants filed 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. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 04/21/2010

Applicant	: Peter John Herbert Carnell	: DECISION ON REQUEST FOR
Patent Number	: 7591944	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/502,236	: 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 **1162** 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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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 05/18/2010

Applicant : Peter John Herbert Carnell
Patent Number : 7591944
Issue Date : 09/22/2009
Application No: 10/502,236
Filed : 03/30/2005

: 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 **1205** 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).

05 APR 2005

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Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

In re Application of	:	
DURAFFOURD, et al.	:	DECISION ON PETITION
Application No.: 10/502,237	:	
PCT No.: PCT/FR02/03089	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 11 September 2002	:	
Priority Date: 11 September 2001	:	
Atty. Docket No.: P/24-182	:	
For: METHOD FOR DETERMINING A PATIENT'S BIOLOGICAL STATE	:	

The petition to revive under 37 CFR 1.137(b) filed 22 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "The undersigned, attorney for the Applicant, has been advised by the Applicant and therefore is informed and believes that the entire delay in entering the national stage in the United States Patent and Trademark Office from the due date for entering the national phase in the United States until the date of this petition was unintentional by the Applicant" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 11 September 2002 under 35 U.S.C. 363 and will be given a date of **22 July 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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D BRENT KENADY
WELLS ST JOHN
SUITE 1300
601 WEST FIRST AVENUE
SPOKANE WA 99201-3828

MAILED

AUG 10 2009

OFFICE OF PETITIONS

In re Application of :
Sadao OMATA :
Application No. 10/502,240 : DECISION ON PETITION
Filed: July 21, 2004 :
Attorney Docket No. **IS14-002** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2009, 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 July 30, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 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 an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of July 30, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3736 for appropriate action the concurrently filed amendment.

Ramesh Krishnamurthy
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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Alexandria, Virginia 22313-1450
www.uspto.gov

D Brent Kenady
Wells St John
Suite 1300
601 West First Avenue
Spokane, WA 99201-3828

Mail Date: 04/21/2010

Applicant	: Sadao Omata	: DECISION ON REQUEST FOR
Patent Number	: 7648470	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/502,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **730** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : AUGUST 14, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/502,255 Patent No.: 7189713 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

LAMONTE NEWSOME
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: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE **Art Unit** 1624

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : AUGUST 14, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/502,255 Patent No.: 7189713 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

LAMONTE NEWSOME
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: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-08

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Kameyama et al.	:	
Application Number: 10/502265	:	DECISION ON PETITION
Filing Date: 07/22/2004	:	
Attorney Docket Number:	:	
81919.0020	:	

This is a decision on the petition filed on August 30, 2007, under 37 CFR 1.137(b).[1]

The petition is **GRANTED**.

The application became abandoned on January 19, 2007, for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on December 18, 2006, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 1, 2007.

Receipt of the amendment filed with the present petition is acknowledged.

---

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may 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)).

Receipt of the Terminal Disclaimer filed to overcome a nonstatutory obviousness-type double patenting rejection is also acknowledged.

The application is being referred to Technology Center Art Unit 2819 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

16 JAN 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

GOWLING LAFLEUR HENDERSON, LLP
1 PLACE VILLE-MARIE 37TH FLOOR
MONTREAL, QUEBEC H3B 3P4
CANADA

In re Application of VERCHERE et al. Serial No.: 10/502,283 PCT No.: PCT/IB03/00597 Int. Filing Date: 23 January 2003 Priority Date: 23 January 2002 Attorney's Docket No.: 07891-032002 For: METHOD OF TREATING DIABETES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition under 37 CFR 1.47(a)", filed on 13 November 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 July 2004, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 01 March 2005, a Notification of Missing Requirements was mailed to applicant indicating that the oath or declaration , in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration, after the thirty month period, was required.

On 01 August 2005, applicant filed a Response to the Notification of Missing Requirements. On 01 September 2006, a Notification of Acceptance was mailed to applicant, indicating the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) were fulfilled.

On 13 November 2007, applicant filed a petition under 37 CFR 1.47(a) because one inventor, Peter Liston, refused to sign a Revocation of Power of Attorney/New Power of Attorney and Change of Correspondence Address.

DISCUSSION

As set forth in MPEP §402.10 Appointment/Revocation by Less Than All Applicants or Owners, Papers

> Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation) or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney.

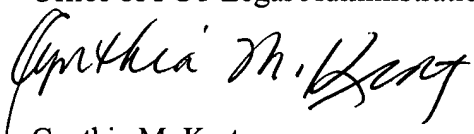
The petition under 37 CFR 1.47(a) is dismissed as moot as it does not apply to the given situation, where the declaration, executed by all the inventors, has been provided and is acceptable.

Applicant is advised to obtain the signature of the assignee of record to seek revocation/appointment of power of attorney. See 37 CFR 1.36.

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

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

Tel: 571-272-3286
Fax: 571-273-0459

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ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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DEC 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,557,105	:	
Bornsen et al.	:	
Issue Date: July 7, 2009	:	
Application No. 10/502,291	:	DECISION ON REQUEST FOR
Filed: April 29, 2005	:	RECONSIDERATION OF
Attorney Docket No. ON/4-32325A	:	PATENT TERM ADJUSTMENT
Title: N-Oxyde Of N-Phenyl-2-Pyrimidine-Amine Derivatives	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST-GRANT", filed September 3, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentees request the final Patent Term Adjustment calculation to increase from 330 days to 748 days.

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

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred thirty-seven (537) days.**

The above-identified application matured into U.S. Patent No. 7,557,105 on July 7, 2009. The patent issued with a patent term adjustment of 330 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d).

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

adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 418 of 538 days, does not overlap with the 508 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Thus, patentees request that the determination of patent term adjustment be increased to a total of seven hundred forty-eight (748) days (the sum of the period of three-year delay (538 days) and the period of examination delay (508 days) less 120 days of overlap less 178 days of applicant delay).

As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) 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 application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the periods under § 1.703(b)(1)-(4). While the date of completion of all 35 U.S.C. 371 requirements, April 29, 2005, is the date used in calculating examination delay under 37 CFR 1.703(a), the date the national stage commenced under 35 U.S.C. 371(b), Monday, July 23, 2004, is used in determining the Three Year Delay under 37 CFR 1.703(b).

Pursuant to 37 CFR 1.703(b)(1), the period of adjustment under 37 CFR 1.702(b) should be 715 days, counting the number of days 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(b), July 24, 2007, and ending on the date the patent issued, July 7, 2009.

At issue is whether patentees should accrue 715 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 508 days for Office failure to take certain actions within specified time frames (or examination 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).

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 national stag commenced overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the national stage commenced, July 23, 2004, to the issuance of the patent on July 7, 2009. 508 days of patent term adjustment were accorded prior to the issuance for Office delay pursuant to 37 CFR §1.702(a)(1). Entry of both 715 days pursuant to 37 CFR §1.702(b) and 508 days pursuant to 37 CFR §1.702(a) is neither permitted nor warranted. The Office did not delay 715 days and then another 508 days. The greater period, 715 days, is the actual number of days issuance of the patent was delayed by the Office. All but 207 days of the periods pursuant to 37 CFR §§1.702(a) and 1.702(b) overlap. Accordingly, at issuance the Office should have entered an additional 207 days of patent term adjustment for taking in excess of three months to issue the patent for a total Office delay of 715 days.

The period of adjustment of 330 days will be removed and a period of adjustment of 537 days will be entered.

In view thereof, the patent term adjustment indicated on the patent should be five hundred thirty-seven **(537) days** ((508 + 207) - 178) days.

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

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred thirty-seven (537) days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,557,105 B2

DATED : July 7, 2009

INVENTOR(S) : Bornsen 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 (330) days

Delete the phrase "by 330 days" and insert – by 537 days--

15 APR 2005

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Malcolm Reid
Gray Plant Mooty Mooty & Bennett, P.A.
P.O Box 2906
Minneapolis, MN 55402-0906

In re Application of	:	DECISION ON
Huijbers et al	:	
Application No.: 10/502,315	:	
PCT No.: PCT/US02/04714	:	PETITION UNDER
Int. Filing Date: 12 February 2002	:	
Priority Date: 14 February 2001	:	
Attorney's Docket No.: 84405	:	
For: HYDRAULICALLY ACTUATED HOLDER	:	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 29 June 2004.

BACKGROUND

On 12 February 2002, this international application was filed, claiming an earliest priority date of 14 February 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 14 August 2003.

On 29 June 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.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **29 June 2004.**

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

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OFFICE OF PETITIONS

In re Application of :
WANG, et al. :
Application No. 10/502,317 : DECISION ON PETITION
Filed: April 22, 2005 : Under 37 CFR 1.137(b)
Attorney Docket No. **85043-402** :

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 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 Restriction Requirement, mailed May 4, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 6, 2006 (June 4, 2006 was a Sunday).

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/amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application is being referred to Technology Center Art Unit 1637 for consideration of the election/amendment filed May 30, 2007.

Brian W. Brown
Petitions Examiner
Office of Petitions

28 SEP 2004

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ALEXANDRIA, VA 22313-1450
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Kennets D'Alessandro
Sierra Patent Group, Ltd.
P. O. Box 6149
Stateline, NV 89449

In re Application of:	:	
Veronique KOOTER LENDERS	:	
Application No.: 10/502,329	:	DECISION
PCT Application No.: PCT/NL02/00542	:	
Int. Filing Date: 13 August 2002	:	ON PETITION
Atty. Docket No.: KOOT-001	:	
Priority Date: 14 June 2002	:	UNDER 37 CFR 1.181
For: ADJUSTABLE SEAT BELT GUIDE	:	

This is a decision in response to applicant's communication filed on 15 June 2004. This letter is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 13 August 2002, applicant filed international application PCT/NL02/00542, which designated the U.S. and claimed a priority date of 14 June 2002. Accordingly, the 30-month deadline for entry into the U.S. national stage will expire at midnight on 14 December 2004.

On 12 March 2004, applicant purportedly filed a transmittal letter for entry into the national stage in the United States, accompanied by: *inter alia* a specification (6 pages), claims (2 pages), abstract (1 page) and 3 sheets of drawings; a copy of the published international application (16 sheets); and a return receipt postcard. The requisite U.S. Basic national fee also accompanied this transmission.

No record can be found of the above-mentioned papers in the United States Patent and Trademark Office (USPTO).

On 15 June 2004, applicant filed a copy of the 12 March 2004 transmission along with the instant petition asking that these papers be treated as being filed on 12 March 2004.

DISCUSSION

Applicant has submitted a copy of a postcard receipt which indicates that the following were received in the USPTO on 12 March 2004:

a transmittal letter (3 pages);
a specification (6 pages);
claims (2 pages ;
Abstract;
Drawing figures (3 sheets);
WO 03/106230 (16 sheets); and
a return postcard.

The "Express Mail" number on the postcard "EU 975044000 US" matches that on the first sheet of the transmittal letter of the 12 March 2004 transmission. The name of the applicant, the attorney, the attorney docket number and the title of the invention on the postcard all match with the corresponding information for this application.

CONCLUSION

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

This application will be forwarded to the United States Designated/Elected/Office for further processing under the Patent Cooperation Treaty and 35 U.S.C. 371. The application papers filed with the 15 June 2004 petition have been assigned application serial number 10/502,329 and these papers will be accorded a receipt date in the USPTO of 12 march 2004.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (703) 308-3543

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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Finn T. Simmensen
Kleinberg & Lerner
Suite 1080
2049 Century Park East
Los Angeles, CA 90067

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
Phillip L. Johnson :
Application No. 10/502,363 : DECISION ON PETITION
Filed: July 21, 2004 : TO WITHDRAW
Attorney Docket No. 15423 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 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 Marshall A. Lerner on behalf of all attorneys/agents 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 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 signing inventor. A courtesy copy of this decision is being mailed to the address noted on the request. However, if the person named on the request desires to receive future correspondence regarding this file, the appropriate documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Phillip L. Johnson
Lot 3 Synotts Lane
Mullumbimby, Australia NSW 2482

cc: Rivet PTY, Ltd.
2654 Worden Street
San Diego, CA 92110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/502,363	07/21/2004	Phillip L Johnson	15423

CONFIRMATION NO. 8119

POWER OF ATTORNEY NOTICE

Finn T Simmensen
Kleinberg & Lerner
Suite 1080
2049 Century Park East
Los Angeles, CA 90067

Date Mailed: 07/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/30/2008.

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

/kainabinet/

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

07 MAR 2005

#3

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PASADENA, CA 91101

In re Application of BARMAKIAN	:	
U.S. Application No.: 10/502,368	:	
PCT Application No.: PCT/US01/42218	:	DECISION
Int. Filing Date: 18 September 2001	:	
Priority Date Claimed: 18 September 2000	:	
Attorney Docket No.: 13071-1PCT	:	
For: COMPOSITE FENDER	:	

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 22 July 2004.

BACKGROUND

On 18 September 2001, applicant filed international application PCT/US01/42218, which claimed priority of an earlier United States application filed 18 September 2000. The thirty-month period for paying the basic national fee in the United States expired on 18 March 2003.

International application PCT/US01/42218 became abandoned as to the United States for failure to timely pay the basic national fee.

On 22 July 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

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 1.497must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

28 APR 2005

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PLANO, TX 75024

In re Application of NAHM et al	:	
U.S. Application No.: 10/502,378	:	
PCT Application No.: PCT/KR03/00151	:	
Int. Filing Date: 23 January 2003	:	
Priority Date Claimed: 23 January 2002	:	DECISION
Attorney Docket No.: OPA9407-10/US (4146-00100)	:	
For: LATERAL FLOW QUANTITATIVE ASSAY METHOD AND STRIP AND LASER-INDUCED FLUORESCENCE DETECTION DEVICE THEREFOR	:	

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed 20 April 2005, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 January 2003, applicant filed international application PCT/KR03/00151, which claimed priority of an earlier Korea application filed 23 January 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 31 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 23 July 2004.

On 23 July 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 an executed declaration.

On 04 March 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which stated that the declaration contained improper signatures.

On 20 April 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition requests acceptance of the declaration filed 23 July 2004. A review of the declaration reveals that it is in compliance with 37 CFR 1.497.

CONCLUSION

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

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 04 March 2005 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 January 2003, and a date under 35 U.S.C. 371(c) of 23 July 2004.

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

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Paper No.

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RAHWAY NJ 07065-0907

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OFFICE OF PETITIONS

In re Application of	:	
Berthelette et al.	:	DECISION ON APPLICATION
Application No. 10/502,380	:	FOR
Filed: January 28, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. MC055P	:	

This is a decision on the "PETITION PURSUANT TO 37 C.F.R. §1.181 and APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)" filed June 12, 2007. Applicants request reinstatement of all or part of the term that was reduced pursuant to 1.704(b), namely twenty-six (26) days.

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

On April 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 (PTA) to date is 73 days. On June 12, 2007, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance was 525 days. Petitioner argues that in spite of all due care, applicants were unable to reply to the rejection within three months of the mailing date of the Office action.

Applicants state that no terminal disclaimer has been filed or is required.

37 CFR § 1.704(b) provides that:

[1] PALM records indicate that the Issue Fee payment was received on June 22, 2007.

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

It is undisputed that applicants did not file a response to the Office action mailed November 3, 2006 until March 1, 2007, three months and 26 days later. Accordingly, pursuant to § 1.704(b), the period of adjustment was properly reduced by 26 days, the number of days, beginning on February 4, 2007, the day after the date that is three months after the date of mailing of the non-final Office action, and ending on March 1, 2007, the date of filing of the reply.

As stated in MPEP 2734,

37 CFR 1.705(c) implements the provisions of 35 U.S.C. 154(b)(3)(C) and specifically provides that a request for reinstatement of all or part of the period of adjustment reduced pursuant to 37 CFR 1.704(b) for failing to reply to a rejection, objection, argument, or other request within three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request must include:

> (1) the fee set forth in 37 CFR 1.18(f); and (2) a showing to the satisfaction of the Director that, in spite of all due care, the applicant was unable to reply to the rejection, objection, argument, or other request within

> three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request. 37 CFR 1.705(c) also provides that the Office shall not grant any request for reinstatement for more than three additional months for each reply beyond three months of the date of mailing of the Office communication notifying the applicant of the rejection, objection, argument, or other request (35 U.S.C. 154(b)(3)(C)).

Filing a reply outside of three months after an Office action is per se a failure to engage in reasonable efforts to conclude prosecution under 35 U.S.C. 154(b)(2)(C)(ii) unless applicant can establish that the delay was "in spite of all due care."

The Office "shall reinstate all or part of the cumulative period of time of an adjustment reduced under [35 U.S.C. 154(b)(2)(C)] if the applicant... makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period...." See 35 U.S.C. 154(b)(3)(C). The "due care" of a reasonably prudent person standard has been applied in deciding petitions under the "unavoidable delay" standard of 35 U.S.C. 133. See In re Mattullath, 38 App. D.C. 497, 514-15 (1912) ("the word unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business") (quoting and adopting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33); see also Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) ("in determining whether a delay...was unavoidable, one looks to whether the party...exercised the due care of a reasonably prudent person"). While the legislative history of the American Inventors Protection Act of 1999 is silent as to the meaning of the phrase "in spite of all due care," the phrases "all due care" and "unable to respond" invoke a higher degree of care than the ordinary due care standard of 35 U.S.C. 133, as well as the "reasonable efforts to conclude processing or examination [or prosecution] of an application" standard of 35 U.S.C. 154(b)(2)(C)(i) and (iii). Therefore, applicants should not rely upon decisions relating to the "unavoidable delay" standard of 35 U.S.C. 133 as controlling in a request to reinstate reduced patent term adjustment on the basis of a showing that the applicant was unable to respond within the three-month period in spite of all due care.

Petitioner has not met this higher standard. To avoid entry of a period of reduction for applicant delay within the meaning of §1.704(b), applicants should have filed a response to the Office action mailed November 3, 2006 on or by February 3, 2007. Petitioner's arguments have been considered, but not found persuasive that applicant was "unable to respond" within the three month period "in spite of all due care." The delay in filing the reply from February 4, 2007 until March 1, 2007 was not in spite of all due care.

Petitioner generally states that they promptly began action on a draft amendment shortly after receiving the November 3, 2006 Office action. However, no amendment was filed. Moreover, petitioner does not detail the efforts undertaken to this end in November and December of 2006. Rather, petitioner details their inability to reach the examiner by telephone during January and February of 2007 due to the examiner being on leave from the Office due to disability; that subsequent to the ending of the three-month period, on February 13th and 14th, a snow and ice storm occurred in the Washington DC area precluding their travel and leading to cancellation of the interview with the newly assigned examiner; and that the interview with the newly assigned examiner did not occur until February 21, 2007. An amendment was filed more than a week thereafter on March 1, 2007.

Petitioner makes clear that they delayed in filing a reply until after they could conduct an interview with an Examiner. Applicants were, of the opinion, they were not able to effectively respond so as to achieve the most desirable result, i.e., the issuance of a Notice of Allowance, without conducting the interview with the Examiner.

This was not out of applicants' control. Applicants were not unable to respond. No natural disaster occurred which rendered applicant unable to reply within the original three-month period. The storm cited did not even occur until February 13, 2007, ten days after the end of the three-month period. Moreover, notwithstanding the storm, applicants have not shown that they were even prepared to file a response on February 13, 2006.

Furthermore, applicants could have filed a written response on or before February 3, 2007. Instead of submitting a written

response to the non-final Office action, applicants state they telephoned the Patent Office a total of eighteen times. Applicants chose to delay filing of a reply until they could file a response that would achieve what they described as the "ordinary and desired outcome." As a consequence, 26 days of patent term adjustment were lost.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is seventy-three (73) days.

The Office acknowledges submission of the $200 fee set forth in 37 CFR 1.18(e) and the $400.00 fee set forth in 37 CFR 1.18(f). No additional fees are required.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APR 0 9 2008

Norman Oblon
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ALEXANDRIA VA 22314

In re Application of	:
Sakuma	:Decision on Petition
Serial No.: 10/502,404	:
Filed : 26 July 2004	:
Attorney Docket No.: 255049US0PCT	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 4 February 2008 to request reconsideration of the restriction requirement made final in the Office action dated 2 November 2007.

37 CFR 1.181(f) states in part, with emphasis added:

> 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.

Because the petition is filed more than two months after the Office action in which the restriction requirement was made final, the petition filed is **DISMISSED** as untimely.

The application will be forwarded to the Examiner to consider the Appeal Brief filed 21 December 2006.

Should there be any questions regarding this decision, please Quality Assurance Specialist 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 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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APR 18 2008

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ALEXANDRIA VA 22314

In re Application of	:
Sakuma	:Decision on Petition
Serial No.: 10/502,404	:
Filed : 26 July 2004	:
Attorney Docket No.: 255049US0PCT	:

This letter is a supplemental petition decision that includes time period for which applicants are under obligation to respond or take other appropriate action. This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 4 February 2008 to request reconsideration of the restriction requirement made final in the Office action dated 2 November 2007.

37 CFR 1.181(f) states in part, with emphasis added:

> 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.

Because the petition is filed more than two months after the Office action in which the restriction requirement was made final, the petition filed is **DISMISSED** as untimely.

Applicants filed a Notice of Appeal on 2 April 2008 and remain under obligation to file their Appeal Brief or take other appropriate action within the time period that started running with the filing of the Notice of Appeal

Should there be any questions regarding this decision, please Quality Assurance Specialist 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 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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28 NOV 2006

23347
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In re Application of :
BONNEY *et al* :
U.S. Application No.: 10/502,405 :
PCT No.: PCT/EP03/00599 :
Int. Filing Date: 22 January 2003 :
Priority Date: 25 January 2002 : **DECISION**
Docket No.: PG4657-2 USw :
For: MEDICAMENT DISPENSER :

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181" filed on 15 September 2006. No fee is required.

BACKGROUND

On 24 January 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 07 February 2005, applicants purportedly filed via facsimile a reply to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration and authorization to charge the required fees to Deposit Account No. 07-1392. These papers were not located in the file.

On 08 August 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 24 January 2005 within the time period set.

On 15 September 2006, applicants filed a petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed via facsimile on 07 February 2005 and a copy of a "Communication Result Report" dated 07 February 2005.

DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 was filed via facsimile on 07 February 2005. This response included an executed declaration and authorization to charge the required surcharge fee. However, these papers were not located in the file. Moreover, USPTO financial records for the above-captioned application show that the surcharge fee has not been charged.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

Applicants have provided a copy of the ten pages purportedly filed 07 February 2005. Applicants included a "Communication Result Report" indicating that ten pages were received at the facsimile number listed on 07 February 2005. Applicants also declare that their statement attesting to the timely transmission of the correspondence is based upon the evidence presented.

A review of the cover page of the documents purportedly filed via facsimile on 07 February 2005 shows that the proper U.S. application number, title, attorney docket number and applicants were recorded. The cover page certifies that a "Transmittal letter (2nd page in duplicate) and Combined Declaration and Power of Attorney (4 pages)" were among the papers received. Moreover, a "Certificate of Transmission by Facsimile" was listed on the cover page which was signed by Marjorie J. Pfeiffer as

transmitted on 07 February 2005.

This evidence meets the requirements of 37 CFR 1.8(b). The statement under 37 CFR 1.8(b)(3) is accepted.

CONCLUSION

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

The Form PCT/DO/EO/909 mailed 08 August 2006 is hereby **VACATED**.

The declaration originally filed 07 February 2005 is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee of $130.00 has been charged to Deposit Account 07-1392 as authorized in the response.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 January 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 February 2005.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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22 MAR 2005

#4

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In re Application of
CHARLES, Donald Michael *et al*
U.S. Application No.: 10/502,415
PCT No.: PCT/AU02/00981
Int. Filing Date: 23 July 2002
Priority Date: 23 July 2001
Attorney Docket No.: 5873-000013
For: METHOD AND SYSTEM FOR RECOGNISING A SPOKEN IDENTIFICATION SEQUENCE

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 23 July 2004 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed 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) is required.

James Thomson
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01 SEP 2006

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#4

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In re Application of: KHAMAR	:	
Application No.: 10/502,417	:	
PCT Application No.: PCT/IB02/05516	:	DECISION ON
Int. Filing Date: 10 December 2002	:	PETITION UNDER
Priority Date Claimed: 10 December 2001	:	37 CFR 1.137(b)
Attorney Docket No.: 574152000200	:	
For: METHOD OF TREATING CANCER	:	

This is a decision on the "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed on 20 January 2006.

BACKGROUND

On 10 December 2002, applicant filed international application PCT/IB02/05516. The international application claims a priority date of 10 December 2001 and designates the United States. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 10 June 2004.

On 07 June 2004, applicant filed a Transmittal Letter to the United States Designated/ Elected Office (DO/EO/US) concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), but did not include the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(b)(2). Accordingly, this international application became abandoned with respect to the United States at midnight on 10 June 2004 for failure to pay the basic national fee. A Notification of Abandonment was mailed on 05 August 2004.

On 20 January 2006, applicant filed the instant petition for revival accompanied by, *inter alia*, a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the petition fee of $1500.

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) the required reply, (2) the petition 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 and fee (if the international application was filed prior to June 8, 1995).

Petitioner's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3). The submission of the national fee satisfies the requirement of 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.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision, including the issuance of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), is required.

John Chapman
PCT Legal Administration Detailee
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Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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05227

In re Application of: KHAMAR	:	
Application No.: 10/502,417	:	
PCT Application No.: PCT/IB02/05516	:	DECISION ON
Int. Filing Date: 10 December 2002	:	PETITION UNDER
Priority Date Claimed: 10 December 2001	:	37 CFR 1.137(b)
Attorney Docket No.: 574152000200	:	
For: METHOD OF TREATING CANCER	:	

This is a decision on the "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed on 20 January 2006.

BACKGROUND

On 10 December 2002, applicant filed international application PCT/IB02/05516. The international application claims a priority date of 10 December 2001 and designates the United States. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 10 June 2004.

On 07 June 2004, applicant filed a Transmittal Letter to the United States Designated/ Elected Office (DO/EO/US) concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), but did not include the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(b)(2). Accordingly, this international application became abandoned with respect to the United States at midnight on 10 June 2004 for failure to pay the basic national fee. A Notification of Abandonment was mailed on 05 August 2004.

On 20 January 2006, applicant filed the instant petition for revival accompanied by, *inter alia*, a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the petition fee of $1500.

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JUN 09 2010

OFFICE OF PETITIONS

WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of
Chen, et al.
Application No. 10/502,420
Filed: August 26, 2005
Attorney Docket No. 27763-705.831

DECISION ON PETITION UNDER
37 CFR 1.182; 1.78(a)(3); and, (a)(6)

This is a decision on the petition to expedite, filed May 18, 2010, under 37 CFR 1.182, and the petition under 37 CFR 1.78(a)(3) and (a)(6), filed March 3, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to a prior-filed international application designating the United States of America (Application No. PCT/US03/03006, filed August 14, 2003) and priority to the prior-filed provisional applications (Application Nos. 60/353,176 and 60/421,772) set forth in the amendment filed August 20, 2009.

DECISION UNDER 37 CFR 1.182

In general, the Office of Petitions reviews petitions and renders decisions on petitions in the order by which the petitions are filed. Consideration outside the general course of action requires a petition to expedite (and fee). As petitioners have met the minimum requirements for expedited treatment, the petition to expedite is grantable.

In view thereof, the petition to expedite under 37 CFR 1.182 is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.78(a)(3) and (a)(6)

As noted in MPEP 1893.03(c)(III), 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.

Accordingly, the petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

Petitioners argue that because the Office recognized the claim for priority, a petition under 37 CFR 1.78 is unnecessary.

Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1]

In the present case, the claim for priority was not picked up properly by the Office. Since the priority claim listed in the original filing receipt was not properly picked up by the Office and it was not specified in the manner required by 37 CFR 1.78, a petition for a delayed claim for priority is necessary.

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 Director may require additional information where there is a question whether the delay was unintentional.

This pending national stage application, which has a filing date of February 3, 2003, was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/353,176, filed February 4, 2002, and Application No. 60/421,772, filed October 29, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment filed August 20, 2009 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

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[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) 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 either a Supplemental Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

In view thereof, the petition under 37 CFR 1.78(a)(6) is DISMISSED.

Receipt is hereby acknowledged of the fee required by 37 CFR 1.182 and the fee required by 37 CFR 1.78(a)(6)(ii).

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

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By hand: Customer Service Window
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Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Alesia M. Brown at (571) 272-3205.

Anthony Knight
Director
Office of Petitions

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JUN 09 2010

OFFICE OF PETITIONS

WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of :
Chen, et al. :
Application No. 10/502,420 :
Filed: August 26, 2005 :
Attorney Docket No. 27763-705.831 :

DECISION ON PETITION UNDER
37 CFR 1.182; 1.78(a)(3); and, (a)(6)

This is a decision on the petition to expedite, filed May 18, 2010, under 37 CFR 1.182, and the petition under 37 CFR 1.78(a)(3) and (a)(6), filed March 3, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to a prior-filed international application designating the United States of America (Application No. PCT/US03/03006, filed August 14, 2003) and priority to the prior-filed provisional applications (Application Nos. 60/353,176 and 60/421,772) set forth in the amendment filed August 20, 2009.

DECISION UNDER 37 CFR 1.182

In general, the Office of Petitions reviews petitions and renders decisions on petitions in the order by which the petitions are filed. Consideration outside the general course of action requires a petition to expedite (and fee). As petitioners have met the minimum requirements for expedited treatment, the petition to expedite is grantable.

In view thereof, the petition to expedite under 37 CFR 1.182 is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.78(a)(3) and (a)(6)

As noted in MPEP 1893.03(c)(III), 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.

Accordingly, the petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT**.

Petitioners argue that because the Office recognized the claim for priority, a petition under 37 CFR 1.78 is unnecessary.

Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1]

In the present case, the application as filed did not include a reference to the prior-filed applications in either a currently transmittal letter or oath or declaration.

Accordingly, the Office did not recognize the claim, despite petitioners' argument to the contrary. The instant petition under 37 CFR 1.78(a)(6) is therefore necessary.

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 Director may require additional information where there is a question whether the delay was unintentional.

This pending national stage application, which has a filing date of February 3, 2003, was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/353,176, filed February 4, 2002, and Application No. 60/421,772, filed October 29, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment filed August 20, 2009 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

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[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) 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 either a Supplemental Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

In view thereof, the petition under 37 CFR 1.78(a)(6) is DISMISSED.

Receipt is hereby acknowledged of the fee required by 37 CFR 1.182 and the fee required by 37 CFR 1.78(a)(6)(ii).

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

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By fax:
(571) 273-8300
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Any questions concerning this matter may be directed to Alesia M. Brown at (571) 272-3205.

Anthony Knight
Director
Office of Petitions

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JUL 29 2010

OFFICE OF PETITIONS

In re Application of
Chen, et al.
Application No. 10/502,420
Filed: August 26, 2005
Attorney Docket No. 27763-705.831

DECISION ON PETITION UNDER
37 CFR 1.182; 1.78 (a)(6)

This is a decision on the request for reconsideration of the petition under 37 CFR 1.78(a)(6), filed July 7, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications (Application Nos. 60/353,176 and 60/421,772) set forth in the amendment filed July 6, 2010.

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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(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 the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Alesia M. Brown, Petitions Attorney, at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1631 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Chris Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/502,420	08/26/2005	1631	1089	27763-705.831	53	9

CONFIRMATION NO. 5778

CORRECTED FILING RECEIPT

21971
WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Date Mailed: 07/26/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Richard O Chen, Redwood City, CA;
Raymond J Cho, San Mateo, CA;
Ramon M Felciano, San Francisco, CA;
Bret Holley, New York, NY;
Viresh Patel, San Francisco, CA;
Daniel R Richards, Palo Alto, CA;
Sushma Selvarajan, Mt View, CA;
Keith Steward, The Woodlands, TX;
Sara Schneider, South San Francisco, CA;

Assignment For Published Patent Application

INGENUITY SYSTEMS, INC., Mountain View, CA

Power of Attorney: The patent practitioners associated with Customer Number 021971

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/03006 02/03/2003
which claims benefit of 60/353,176 02/04/2002
and claims benefit of 60/421,772 10/29/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/14/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/502,420**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Drug discovery methods

Preliminary Class

702

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).

#15

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24 SEP 2007

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of	:	
KLEIN, Eberhard et al.	:	
Application No.: 10/502,430	:	DECISION ON
PCT No.: PCT/DE02/03408	:	
Int. Filing Date: 12 September 2002	:	PETITION
Priority Date: 22 January 2002	:	
Attorney's Docket No.: 10191/3445	:	UNDER 37 CFR 1.181
For: METHOD AND DEVICE ... INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicants' 3rd Renewed Petition to Withdraw the Holding of Abandonment, filed in the United States Patent and Trademark Office on 25 June 2007.

BACKGROUND

On 23 May 2007, the Office mailed Decision On Petition Under 37 CFR 1.181, advising applicant that the translation of Figure 4 was not acceptable and again advising applicant that the application was properly abandoned. The decision indicated that a proper response was a petition under 37 CFR 1.137 and a translation of the drawings.

On 25 June 2007, applicants submitted this renewed petition to withdraw the holding of abandonment, accompanied by a new translation of figures 4 and 5.

DISCUSSION

The translation of figures 4 and 5 is now acceptable.

However, as mentioned in the 21 November 2006, 29 January 2007 and 23 May 2007 decisions, this application is abandoned. The response to the 21 April 2005 Notification of Defective Response was defective and thus would not have been sufficient to prevent abandonment. A petition under 37 CFR 1.137 is necessary to revive it.

CONCLUSION

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

This application remains **ABANDONED**.

A proper response to this decision is required within **TWO (2) MONTHS** of the mail date of this decision. Failure to timely reply may be construed as intentional delay.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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21 NOV 2006

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of	:	
KLEIN, Eberhard et al.	:	
Application No.: 10/502,430	:	DECISION ON
PCT No.: PCT/DE02/03408	:	
Int. Filing Date: 12 September 2002	:	PETITION
Priority Date: 22 January 2002	:	
Attorney's Docket No.: 10191/3445	:	UNDER 37 CFR 1.181
For: METHOD AND DEVICE ... INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicants' submission of 15 September 2006.

BACKGROUND

On 21 March 2005, the Office mailed Notification of a Defective Response indicating that figure 4 was not properly translated and that a translation was required within one month or the time remaining in the Notification of Missing Requirements.

On 21 August 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/905) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 15 September 2006, applicants sent a copy of figures 4 and 5 with Response to Notification of Defective Response, dated 21 April 2005. The cover letter was signed by someone not registered to practice before the Office and was accompanied by a postcard receipt.

DISCUSSION

Applicants were previously informed that the text of figure 4 was not properly translated. A timely response to that Notification is not of record and the application is abandoned.

Further, the response dated 21 April 2005 would not have been sufficient to avoid abandonment. Applicants were requested to provide a translation of figure 4. Instead, applicants translated figure 4 and provided a new translation of figure 5, so that it no longer tracked with the description.

A proper response is either a new translation of the entire application and drawings removing the German language abbreviations or the submission of a translation of figure 4 and a return to the original translation of figure 5.

CONCLUSION

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

This application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely reply may be construed as intentional delay.

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
Attorney Advisor
PCT Legal Administration

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

29 JAN 2007

#10

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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of	:	
KLEIN, Eberhard et al.	:	
Application No.: 10/502,430	:	DECISION ON
PCT No.: PCT/DE02/03408	:	
Int. Filing Date: 12 September 2002	:	PETITION
Priority Date: 22 January 2002	:	
Attorney's Docket No.: 10191/3445	:	UNDER 37 CFR 1.181
For: METHOD AND DEVICE ... INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicants' submission of 21 September 2006.

BACKGROUND

On 21 March 2005, the Office mailed Notification of a Defective Response indicating that figure 4 was not properly translated and that a translation was required within one month or the time remaining in the Notification of Missing Requirements.

On 21 August 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/905) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 15 September 2006, applicants sent a copy of figures 4 and 5 with Response to Notification of Defective Response, dated 21 April 2005. The cover letter was signed by someone not registered to practice before the Office and was accompanied by a postcard receipt.

On 21 September 2006, applicants sent Petition to Withdraw Holding of Abandonment, along with copies of the 21 April 2005 submission and a postcard receipt.

On 21 November 2006, the Office mailed Decision On Petition, dismissing applicant's petition to withdraw the holding of abandonment, explaining that the submission would not have been sufficient to avoid abandonment.

DISCUSSION

Applicants were previously informed that the text of figure 4 was not properly translated. A timely response to that Notification is not of record and the application is abandoned.

As discussed in the 21 November 2006 decision, the 21 April 2005 would not have been sufficient to avoid abandonment. Applicants were requested to provide a translation of figure 4.

Instead, applicants translated figure 4 and provided a new translation of figure 5, so that it no longer tracked with the description.

A proper response is either a new translation of the entire application and drawings removing the German language abbreviations or the submission of a translation of figure 4 and a return to the original translation of figure 5.

CONCLUSION

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

This application remains **ABANDONED**.

The time period for reply continues to run from the mailing of the 21 November 2006 Decision On Petition.

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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23 MAY 2007

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Richard L. Mayer
KENYON & KENYON
One Broadway
New York, NY 10004

In re Application of:	:	
EBERHARD, Klein et al		
Application No.: 10/502,430	:	DECISION
PCT Application No.: PCT/DE02/03408	:	
Int. Filing Date: 12 September 2002	:	UNDER
Priority Date: 22 January 2002	:	
Atty Docket No.: 10191/3445	:	37 CFR 1.181
For: METHOD AND DEVICE...INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicants' " RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed 18 January 2007, which has been treated as a petition under 37 C.F.R. 1.181.

BACKGROUND

On 12 September 2002, applicants filed international application PCT/DE02/03408, which designated the U.S. and claimed priority date of 22 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) on 31 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2004.

On 22 July 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 English translation.

On 16 November 2004, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) noting, *inter alia*, the text in the drawings was not properly translated and that an oath or declaration of the inventors and a translation of the application into English were required.

On 05 January 2005, applicants filed an executed declaration, a Power of Attorney and four (4) sheets of substitute drawings translating the text of the figures.

On 21 March 2005, the Office mailed a Notification of a Defective Response indicating figure 4 was not properly translated and that a translation was required within one month or the time remaining in the Notification of Missing Requirements.

On 21 August 2006, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/905) indicating the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 15 September 2006, applicants filed a copy of the "Response to Notification of a Defective Response" originally filed on 21 April 2005, accompanied with a postcard receipt and a copy of figures 4 and 5. Someone not registered to practice before the Office signed the cover letter.

On 21 September 2006, applicants sent a Petition to Withdraw Holding of Abandonment, along with copies of the 21 April 2005 submission and a postcard receipt.

On 21 November 2006, the Office mailed a Decision on the Petition, filed 15 September 2006, dismissing applicants' petition to withdraw the holding of abandonment, explaining that the submission would not have been sufficient to avoid abandonment.

On 18 January 2007, applicants sent a Renewed Petition to Withdraw Holding of Abandonment, along with copies of the 21 April 2005 submission and a postcard receipt.

On 29 January 2007, the Office mailed a Decision on the Petition, filed 21 September 2006, dismissing applicants' petition to withdraw the holding of abandonment, explaining that the submission would not have been sufficient to avoid abandonment.

DISCUSSION

Applicants were previously informed in the 29 January 2007 decision that "the text of figure 4 was not properly translated" and "a proper response is either a new translation of the entire application and drawings removing the German language abbreviations or the submission of a translation of figure 4 and a return to the original translation of figure 5". The decision also indicated that a timely response to the Notification was not of record and the application was abandoned.

In the petition filed 18 January 2007, applicants contend that a formal "Petition to Withdraw Holding of Abandonment" mailed on 21 September 2006 was timely filed with the proper response, noting that the response was filed within one month of 21 March 2005. Applicants also submitted a copy of a translation of figure 4 and the original figure 5.

The text of figure 4 is not properly translated. The quantity of English text provided for the translation of figure 4 appears to be more than the quantity of the original text of figure 4. The terms used in figure 4 are not fully supported by the original specification. It appears that the additional terms added to figure 4 could be new matter. Applicants are requested to provide the proper translation of figure 4.

Although applicants' response on 21 April 2005 was timely filed, the reply was not responsive to the Notification of a Defective Response, for the reasons set forth above. The application remains abandoned.

A proper response is a petition for Revival under 37 C.F.R. 1.137 accompanied by a proper translation of the text of figure 4.

CONCLUSION

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

The application remains **ABANDONED.**

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

Bena Miller
PCT Legal Examiner Detailee
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

#15

UNITED STATES PATENT AND TRADEMARK OFFICE

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24 SEP 2007

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of	
KLEIN, Eberhard et al.	
Application No.: 10/502,430	DECISION ON
PCT No.: PCT/DE02/03408	
Int. Filing Date: 12 September 2002	PETITION
Priority Date: 22 January 2002	
Attorney's Docket No.: 10191/3445	UNDER 37 CFR 1.181
For: METHOD AND DEVICE ... INTERNAL COMBUSTION ENGINE	

This decision is in response to applicants' 3rd Renewed Petition to Withdraw the Holding of Abandonment, filed in the United States Patent and Trademark Office on 25 June 2007.

BACKGROUND

On 23 May 2007, the Office mailed Decision On Petition Under 37 CFR 1.181, advising applicant that the translation of Figure 4 was not acceptable and again advising applicant that the application was properly abandoned. The decision indicated that a proper response was a petition under 37 CFR 1.137 and a translation of the drawings.

On 25 June 2007, applicants submitted this renewed petition to withdraw the holding of abandonment, accompanied by a new translation of figures 4 and 5.

DISCUSSION

The translation of figures 4 and 5 is now acceptable.

However, as mentioned in the 21 November 2006, 29 January 2007 and 23 May 2007 decisions, this application is abandoned. The response to the 21 April 2005 Notification of Defective Response was defective and thus would not have been sufficient to prevent abandonment. A petition under 37 CFR 1.137 is necessary to revive it.

CONCLUSION

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

This application remains **ABANDONED**.

A proper response to this decision is required within **TWO (2) MONTHS** of the mail date of this decision. Failure to timely reply may be construed as intentional delay.

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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17 DEC 2007

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KENYON & KENYON
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NEW YORK, NY 10004

In re Application of	:	
KLEIN, Eberhard et al.	:	
Application No.: 10/502,430	:	DECISION ON
PCT No.: PCT/DE02/03408	:	
Int. Filing Date: 12 September 2002	:	PETITION
Priority Date: 22 January 2002	:	
Attorney's Docket No.: 10191/3445	:	UNDER 37 CFR 1.181
For: METHOD AND DEVICE ... INTERNAL COMBUSTION ENGINE	:	

Applicant's Petition Under 37 CFR 1.137(b), filed in the above-captioned application on 11 October 2007 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate reply has been submitted. The petition fee will be charged to deposit account no. 11-0600, as authorized. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 September 2007.

Erin P. Thomson

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PCT Legal Administration

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07 JUN 2005

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Danielle L. Herrit
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

In re Application of	:	
KORSUNKY, Alexander	:	
Application No. 10/502,432	:	
PCT No.: PCT/GB03/00283	:	DECISION ON PETITION
Int. Filing Date: 24 January 2003	:	UNDER 37 CFR 1.181
Priority Date: 25 January 2002	:	
Attorney Docket No.: ISI-003US	:	
For: X-RAY DIFFRACTION METHOD	:	

This decision is in response to applicant's "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" filed 13 May 2005, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 24 January 2003, applicant filed the above identified international application which claimed priority date of 25 January 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2004.

On 22 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international; a preliminary amendment; and a copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase.

On 28 March 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 13 May 2005, applicant filed "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office."

DISCUSSION

As stated above, 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. Applicant states in the present response that, "the declaration was previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1." A review of the application reveals that the declaration "Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America" is not in compliance with 37 CFR 1.497(a)-(b).[1] Specifically, the declaration is defective pursuant to 37 CFR 1.497(a)(2), in that, the declaration does not identify the international application number to which it is directed. Therefore, applicant is required to submit a newly executed declaration which identifies the above identified application.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

A proper response must be filed within **ONE MONTH** from the mail date of this decision and must include a proper declaration in compliance with 37 CFR 1.497(a)-(b) executed the named inventor. 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 under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 28 March 2005 may be extended up to a maximum of five months.

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

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

---

[1]See also Administration Instruction under the Patent Cooperation Treaty Section 214(a) which states: a declaration of inventorship, referred to in Rule 4.17(iv), that is made for the purpose of the designation fo the United States of America shall be worded as follows: . . the declaration is directed to international application No. PCT/...(if furnishing declaration pursuant to Rule 26ter).

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Danielle L. Herrit
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28 State Street
Boston, MA 02109

In re Application of KORSUNKY, Alexander Application No. 10/502,432 PCT No.: PCT/GB03/00283 Int. Filing Date: 24 January 2003 Priority Date: 25 January 2002 Attorney Docket No.: ISI-003US For: X-RAY DIFFRACTION METHOD	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Supplemental Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" filed 25 July 2005, which is being treated as a Renewed Petition under 37 CFR 1.181. The petition under 37 CFR 1.181 is **GRANTED**.

On 24 January 2003, applicant filed the above identified international application which claimed a priority date of 25 January 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2004.

On 22 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international; a preliminary amendment; and a copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase.

On 28 March 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 13 May 2005, applicant filed "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office." In a decision dated 07 June 2005, applicant was notified that the declaration submitted on 13 May 2005 was not in compliance with 37 CFR 1.497(a)-(b).

On 25 July 2005, applicant filed "Supplemental Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" which included an executed declaration; $130 surcharge for furnishing an oath or declaration later than 30 months from the priority date; and a petition fee for a three-month extension of time.

A review of the application reveals that the declaration submitted on 25 July 2005 is in compliance with 37 CFR 1.497(a)-(b). Specifically, the declaration identifies the international application number to which it is directed.

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

The application has an international filing date of 24 January 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of 25 July 2005.

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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Fax: 571-273-0459

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Alexander M. Korsunsky :
Application No. 10/502,432 : ON PETITION
Filed: July 25, 2005 :
Attorney Docket No. ISI-003US :

This is a decision in response to the petition, filed December 17, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 24, 2007, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on February 25, 2008. On December 17, 2008, the present petition was filed.

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

The application is being referred to Technology Center AU 2882 for appropriate action by the Examiner in the normal course of business on the amendment received December 17, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JUN 22 2006

OFFICE OF PETITIONS

Deborah Chess
Honeywell International Inc
101 Columbia Road
Morristown NJ 07962

In re Application of
LALENA et al.
Application No.: 10/502,480
Attorney Docket No.: H0003278

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 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 non-final Office action mailed June 27, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned at midnight on September 27, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 10, 2006 is accepted as having been unintentionally delayed.

There is no indication that petitioner herein, Mr. James E. Lake, is an attorney of record. Therefore, it is not apparent whether Mr. Lake was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Further, if Mr. Lake desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent documentation must be submitted. While a courtesy copy of this decision is being mailed to Mr. Lake at the address noted on the latest communication; i.e., the Petition to Revive received March 10, 2006, all future correspondence will be directed to the above-noted address currently of record until such time as appropriate instructions are received to the contrary.

The application is being referred to Technology Center AU 1742.

Telephone inquiries concerning this decision should be directed to the undersigned.

Cynthia M. Kratz
Petitions Attorney
(571) 272-3286

cc: JAMES E. LAKE
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SPOKANE, WA 99201-3828

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

Mail Date: 04/21/2010

Applicant	: Arno Friedrichs	: DECISION ON REQUEST FOR
Patent Number	: 7643795	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/502,483	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **246** 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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APR 21 2009

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of:
Sorensen et al.
Serial No.: 10/502,489
Filed: July 26, 2004
Attorney Docket No.: **SORENSEN2**

DECISION ON PETITION TO VACATE NOTICE OF NON-COMPLIANT AMENDMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a), filed on April 16, 2009, to vacate the notice of non-responsive amendment.

The petition and file history have been carefully reviewed.

The basis for the holding of non-responsiveness was because "The Amendment to the Specification fails to comply with 37 CFR 1.121 (b)(1)(ii) because the Amendment to the Specification shows highlighting over the area that has been marked for correction causing the corrections to be unclear and because it is not clear whether the sentences that begin "(URL inactivated in accordance...", which are underlined, at the end of each of the corrected paragraphs, are meant to be included in the amended specification.

It is not clear whether the highlighting was intended to be present in the text when published. Also, the text within the paragraph brackets seemed to be an explanation of why the amendment was being made, making it uncertain as to whether this was intended to be present in the text of a patent. While there is no prohibition against highlighting, it is considered that there exists ambiguity and none should exist.

Applicants' petition is **DENIED.**

The Notice of non-responsive amendment will not be vacated and Applicants' amendment of August 4, 2008 will not be entered.

The response to Notice of Non-Compliant Amendment filed concurrently with the petition on April 16, 2009 will be entered.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Barton, et al. :
Application No. 10/502,507 : DECISION ON PETITION
Filed: July 21, 2004 :
For: APPARATUS FOR CONTROLLING :
POWER DISTRIBUTION TWO :
SUBSYSTEMS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 31, 2008 for failure to timely pay the issue fee, as required by the Notice of Allowance and Fee(s) Due mailed April 30, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

03 MAR 2005
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Richard E.L. Henderson
Patent Department
Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of	:	
ANDERSCH, et al.	:	
U.S. Application No.: 10/502,527	:	DECISION ON PAPERS
Filing Date: 26 July 2004	:	
Attorney Docket No.: CS-8286/LeA 35,814	:	UNDER 37 CFR 1.42
For: SYNERGISTIC INSECTICIDAL MIXTURES	:	

This decision is in response to applicant's "Submission of Missing Parts" filed in the United States Patent and Trademark Office (USPTO) on 17 November 2004. The response is being treated as a request for status under 37 CFR §1.42. No petition fee is due.

BACKGROUND

On 20 January 2003, applicant filed international application PCT/EP03/00478 which claimed priority of an earlier application filed 31 January 2002. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2004.

On 26 July 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 First Preliminary Amendment. An executed oath or declaration of the inventor as required by 35 U.S.C. 371 (c)(4) was not filed.

On 17 November 2004, applicant filed the present request accompanied by an executed declaration. Applicant authorized the charging of the $130.00 surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority date to Deposit Account No.: 50-2510.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 17 November 2004 is executed by joint inventors Wolfram Andersch and Peter Jeschke. In addition, the declaration is executed by Angelika Lubos-Erdelen as the sole legal heir to estate of deceased joint inventor, Christoph Erdelen. The declaration provides the residence, post office address and country of citizenship for both the deceased inventor and his heir. Applicant has submitted a certified English translation of a deed of inheritance which shows Ms. Erdelen to be the sole heir of her husband's estate.

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

As detailed above, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 20 January 2003 and a date of **17 November 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

#5

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26 JUL 2006

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO, TX 75024

In re Application of ASCHERMANN :
U.S. Application No.: 10/502,528 :
PCT Application No.: PCT/EP02/00996 :
Int. Filing Date: 30 January 2002 :
Priority Date Claimed: (none) : DECISION
Attorney Docket No.: P14957-US1 :
For: METHOD AND SYSTEM FOR :
TRANSMISSION OF CARRIER SIGNALS :
BETWEEN FIRST AND SECOND :
ANTENNA NETWORKS :

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181" filed 26 June 2006.

BACKGROUND

On 30 January 2002, applicant filed international application PCT/EP02/00996. A copy of the international application was communicated to the USPTO from the International Bureau on 21 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 July 2004.

On 26 July 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 17 December 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 04 January 2005, applicant purportedly filed an executed declaration via facsimile.

On 12 June 2006, 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 26 June 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition includes a copy of a USPTO-generated auto-reply facsimile transmission which sufficiently demonstrates that the declaration was filed on the date alleged.

CONCLUSION

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

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

The application has an International Filing Date under 35 U.S.C. 363 of 30 January 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 04 January 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
PCT Legal Office

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

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

In re Application of:
JOENSUU, Heikki
U.S. Application No.: 10/502,534
PCT No.: PCT/EP03/00802
International Filing Date: 27 January 2003
Priority Date: 28 January 2002
Atty Docket No.: ON/4-32326A
For: TREATMENT OF RHEUMATOID ARTHRITIS USING IMATINIB

DECISION ON PETITION

This decision is issued in response to the "Request To Revive Under 37 CFR 1.137(b)" filed 30 May 2006, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 January 2003, applicants filed international application PCT/EP03/00802. The international application claimed a priority date of 28 January 2002 and it designated the United States. On 07 August 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 28 July 2004.

On 26 July 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 09 December 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 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 11 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements.

On 30 May 2006, applicants filed the petition considered herein, treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. The petition asserts that on 05 January 2005 applicants filed a timely response to the Notification Of Missing Requirements, including an executed declaration. Attached to the petition is a copy of the materials purportedly

filed on 05 January 2005 (including the executed declaration), as well as a copy of a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 05 January 2005.

DISCUSSION

Based on the statements in the present petition and the attached return postcard, the materials attached to the present petition (including the executed declaration and the authorization to charge Deposit Account No. 19-0134 the required surcharge) will be treated as having been submitted on 05 January 2005. The submission is therefore considered a timely response to the Notification Of Missing Requirements mailed 09 December 2004.

The Notification of Abandonment mailed 11 May 2006, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated. A review of the declaration attached to the petition confirms that the declaration is in compliance with 37 CFR 1.497.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 11 May 2006 is hereby **VACATED**.

Deposit Account No. 19-0134 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

The $1500 petition fee submitted with the present petition, which is unnecessary based on the withdrawal of the abandonment, will be refunded to Deposit Account No. 19-0134.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 05 January 2005.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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Facsimile: (571) 273-0459

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October 07, 2009

Michael D. Carter
Lee & Hayes, PLLC
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

Patent No.: 7,516,372 B2
Application No.: 10/502541
Inventor (s): Dyson Wilkes, et al.
Issued: April 07, 2009
Title: **PROCESSOR CONTROL SYSTEM FOR SUPPLYING CONTROL INSTRUCTIONS TO A PROCESSOR**

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/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(571) 272-0460
vt

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LEE & HAYES, PLLC
601 W RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED

JAN 0 4 2010

OFFICE OF PETITIONS

In re Patent No. 7,516,372 :
Issued: April 7, 2009 :
Application No. 10/502,541 : ON PETITION
Filed: May 11, 2005 :
Attorney Docket No. IF2-0008US :

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 change the assignee on the issued patent.

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***. Patent and Trademark Office assignment records disclose that the most current assignment recorded May 11, 2005, Reel 016214 and Frame 0965 states the assignee's name as "Infineon Technologies AG" and the address as "Munchen Germany". Petitioner has submitted the city of "Neubiberg" in place of "Munchen".

Accordingly, since petitioner is requesting a correction of a previously recorded assignment that was not submitted for recordation to the Assignment Branch and since it is after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Additionally, 37 CFR 3.81(b) requires payment of a $130.00 surcharge which will be charged to petitioner's deposit account as authorized November 2, 2009.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent No. 7,516,372 :
Application No. 10/502,541 :
Filed: May 11, 2005 : ON PETITION
Issued: April 7, 2009 :
Attorney Docket No. IF2-0008US :

This is a decision on the renewed petition filed January 22, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name, of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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WASHINGTON, DC 20036-5304

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OFFICE OF PETITIONS

In re Application of
Peng Zhou, et al.
Application No. 10/502,543
Filed: July 27, 2004
Attorney Docket No. 56815-0200

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 4 2009, 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 September 4, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 5, 2008. This decision precedes the mailing of a Notice of Abandonment. On June 4, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on June 4, 2009 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 AU 2444 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.

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

07 DEC 2006

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Foley and Lardner, LLP
Suite 500
3000 K Street, NW
Washington, D.C. 20007

In re Application of
ROUKES, et al.
Application No.: 10/502,551
PCT No.: PCT/US03/14284
Int. Filing Date: 07 May 2003
Priority Date: 07 May 2002
Atty. Docket No.: 049411-0242
For: DYNAMICS BIONEMS SENSORS AND ARRAYS OF BIONEMS SENSOR IMMERSED IN FLUIDS

DECISION ON PETITION

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed application data sheet.

The petitions are **GRANTED**.

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

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

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

included in an Application Data Sheet, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) applicant's statement that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date on which the claim is being filed was unintentional" is construed as meaning that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(3) and 1.78(a)(6) and the date the claim was filed was unintentional." If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration. As construed, petitioner's statement satisfied item (3) above. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operation for further processing in accordance with this decision, including the processing of applicant's response to the Notification of Missing Requirements filed 15 February 2005.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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DEAN A. CRAINE
9-LAKE BELLEVUE DRIVE
SUITE 208
BELLEVUE, WA 98005

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Sung-Min Ko :
Application No. 10/502,553 : DECISION ON PETITION
Filed: January 20, 2005 :
Attorney Docket No. 2428-013/NP :

This is a decision on the petition, filed January 23, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of September 10, 2007, which set a three (3) month shortened statutory period for reply. Three month (3) extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before March 10, 2008.

Petitioner states that a timely reply was received on March 14, 2008, via certificate of mailing on March 10, 2008, which included the following papers: amendment/reply and three month extension of time. Office records show copies of the March 14, 2008 (March 10, 2008 certificate of mailing) correspondence reply was timely received.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of September 10, 2007 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3625 for appropriate action in the normal course of business on the reply received with petition.

Irvin Dingle
Petition Examiner
Office of Petitions

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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
10/502,553	01/20/2005	Sung-Min Ko	2428-013/NP

CONFIRMATION NO. 7523

POWER OF ATTORNEY NOTICE

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

OC000000034573725

Date Mailed: 02/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2009.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/502,553	01/20/2005	Sung-Min Ko	2428-013/NP

CONFIRMATION NO. 7523

POA ACCEPTANCE LETTER

28009
DEAN A. CRAINE
9-Lake Bellevue Drive
Suite 208
BELLEVUE, WA 98005

OC000000034573797

Date Mailed: 02/13/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2009.

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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Christian D. Abel
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0130 Oslo, Norway

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OFFICE OF PETITIONS

In re Application of :
Øyvind Overskeld *et al.* :
Application No. 10/502,567 : ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. P18742 USPC :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 12 December 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 04 June 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is 05 September 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; 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). Since the $525.00 extension of time fee submitted with the petition on 12 December 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Technology Center AU 3651 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 Bucci
Petitions Examiner
Office of Petitions

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Dr. Steve Singh
25 Harrington Villas
Brighton East Sussex BN1 6RG GB
UNITED KINGDOM

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of

Steve Sevak Singh

Application No. 10/502,568

Filed: July 28, 2004

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed April 20, 2007, and in duplicate on May 2, 2007.

The petition is **granted**.

This application was held abandoned on October 26, 2006, after no reply was received to the non-final Office action mailed July 25, 2006. The notice set forth a shortened statutory period for reply of three-months from its mailing date. A Notice of Abandonment was mailed February 22, 2007. The instant petition was first filed on April 20, 2007. Petitioner maintains that the non-final Office action was never received.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

It is noted that petitioner has not provided the docket records normally required for a grantable petition of this type. However, a review of the application file reveals that the non-final Office action, although addressed correctly, was returned to the USPTO for insufficient postage. The evidence is convincing that petitioner did not receive the non-final Office action. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded Technology Center 2800, GAU 2821 for further processing including remailing of the non-final Office action.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET, 2ND FLOOR
ARLINGTON VA 22202

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
OLSSON, Kent :
Application No. 10/502,584 :
Filed: May 9, 2005 :
Attorney Docket No. **1531-1002** :

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 April 3, 2007.

The request is **NOT APPROVED.**

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on March 12, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KENT OLSSON**
RINGVAGEN 50
STOCKHOLM, SWEDEN SE-118 67

19 APR 2005

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STEET, N.W. SUITE 300
WASHINGTON, D.C. 20001

In re Application of	:	DECISION ON
WARSHAWSKY et al	:	
PCT No.: PCT/IL03/00061	:	
Application No.: 10/502,591	:	PAPERS FILED
Int. Filing Date: 23 January 2003	:	
Priority Date: 24 January 2002	:	
Attorney's Docket No.: WARSHAWSKY1	:	UNDER 37 CFR 1.42
For: METHOD OF LOCAL RHEOLOGICAL ...	:	
POLYACRYLAMIDE POLYMER MOLECULES	:	

This is a decision on the declaration filed 03 March 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 26 July 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). No executed declaration was submitted at such time.

On 03 March 2005, applicants submitted an executed declaration which is signed by Rivka Warshawsky as the sole heir of the deceased first joint-inventor Abraham WARSHAWSKY.

DISCUSSION

The executed declaration submitted is signed by the sole heiress Rivika Warshawsky of the deceased inventor (Abraham WARSHAWSKY) and it satisfies the requirements under 37 CFR 1.42.

If she is executing the declaration as the sole heiress of the deceased inventor then it is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative(s) of the deceased inventor in response to this decision.

Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

The 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 **03 March 2005**.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

14 JUN 2005

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Robert W. Strozier
P.O. Box 429
Bellaire, TX 77402-429

In re Application of	:	DECISION ON
TOUR et al	:	
Application No.: 10/502,601	:	
PCT No.: PCT/US02/23747	:	
Int. Filing Date: 26 July 2002	:	PETITION UNDER
Priority Date: 27 July 2001	:	
Attorney's Docket No.: 04005/015US	:	
For: MOLECULAR ELECTRONIC	:	
INTERCONNECTS	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An Application For Patent Unintentionally Under 37 CFR 1.137(b)," filed on 26 July 2004.

BACKGROUND

On 26 July 2002, this international application was filed, claiming an earliest priority date of 27 July 2001.

Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 21 March 2004.

On 26 July 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 basic national fee and an improperly executed declaration since it does not contain the PCT application number.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091109

DATE : November 18, 2009

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7,240,308

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: /Jack Chiang/ **Art Unit** 2825

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091109

DATE : November 18, 2009

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7,240,308

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: /Jack Chiang/ **Art Unit** 2825

Copied from 11502621 on 03/29/2010

04 JAN 2005

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Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of :
NEUBAUER et al. :
Application No.: 10/502,622 : DECISION ON PETITION
Filing Date: 22 July 2004 : UNDER 37 CFR 1.181
Attorney Docket No.: SCHO0176 :
For: METHOD AND DEVICE FOR EMBEDDING WATERMARK INFORMATION AND METHOD AND DEVICE FOR EXTRACTING EMBEDDED WATERMARK INFORMATION :

This is a decision on applicants' "Petition to Convert" filed on 25 October 2004 in the United States Patent and Trademark Office (USPTO), which requests that the application papers submitted on 22 July 2004 be considered a filing under 35 U.S.C. 111. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 25 February 2003, applicants filed international application no. PCT/EP03/01914 which claimed a priority date of 12 April 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, 12 October 2004.

On 22 July 2004, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and an executed declaration.

On 25 October 2004, applicants filed "Petition to Convert," which requests that the application papers submitted on 22 July 2004 be considered a filing under 35 U.S.C. 111.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 22 July 2004, applicants submitted a specification which stated "this application is a continuing if co-pending international application no. PCT/EP03/01914, filed February 2003, which designated the United States and was not published in English." The statement in the specification is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 22 July 2004 should have been treated as a filing under 35 U.S.C. 111(a).

CONCLUSION

The petition to convert the application from a national stage application under 35 U.S.C. 371 to a 35 U.S.C. 111 filing is **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

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

#5

21 NOV 2005

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THOMAS HAMILTON
SYNGENTA CROP PROTECTION, INC.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409

In re Application of	:	
BEAN et al.	:	
Application No.:10/502,628	:	DECISION ON
PCT No.: PCT/GB03/00615	:	
Int. Filing Date: 12 February 2003	:	PETITION
Priority Date: 26 February 2002	:	
Attorney Docket No.:PPD 50371/UST	:	UNDER 37 CFR 1.181
For: Glyphosate Formulation	:	

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed 12 August 2005 requesting relief based on non-receipt of the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)". No petition fee is required.

BACKGROUND

On 23 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), a copy of the International Search Report, a copy of the IPER, a preliminary amendment, an information disclosure statement, copies of references cited in the International Search Report and a copy of the priority document. An oath as required by 35 U.S.C. 371(c)(4) was not filed.

On 06 January 2005, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, and a surcharge for providing the oath or declaration later than 30 months from the priority date must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later. The Notification also required a translation of the application into English. However, the original PCT application was in English. Therefore, no translation is required. The period for response expired 06 March 2005, two months from the mail date of the Notification.

On 25 January 2005, applicants submitted a request for a status inquiry.

On 06 March 2005 at midnight, the application became abandoned because applicants failed to respond to the Notification within the time period provided.

On 05 August 2005, applicant accessed Private PAIR and found a Notice of DO/EO Missing Requirements was mailed on 06 January 2005.

On 12 August 2005, applicants filed the petition to revive including a statement that the Notice was never received by SYNGENTA at the address associated with the Customer Number 26748. Filed with the petition was a statement from Susan Keefer, who is in charge of handling incoming mails. Applicant also indicated filing of a docket record with the petition. However, the Office has not received the docket record. The petition authorized the charge of $130 for petition fee and $130 for the surcharge fee. In addition, applicant submitted executed declarations from the inventors.

DISCUSSION

Pursuant to 1156 OG 53, under the section "Withdrawing the Holding of Abandonment When Office Actions are Not Received", the OG Notice states in part

> "The showing required to establish the failure to receive an Office actio[n] must consist of a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the 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."

MPEP 711.03 (c) provides in part that:

> " A copy of the docket record where the nonreceived communication would have been entered had it been received and docketed must be attached to and reference 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."

A review of the papers filed 12 August 2005 reveals that the evidence submitted by applicants is *insufficient* to establish that the 06 January 2005 Notification was not received by applicants. Applicants have provided a statement from the practitioner, Thomas Hamilton, stating that the Notification was not received and a search of the file jacket and the docket records indicates the Notification was not received. There is no docket record showing where the non-received action would have been entered had it been received and docketed and referenced in the practitioner's statement. Thus, what the Office now requires, as set forth in the OG notice, are the docket reports for the law

firm for when the response is due. The required evidence is the docket report for the time period of 06 March 2005 (when the oath or declaration fees were due).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **Dismissed Without Prejudice**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

A proper response must include a docket report showing all replies docketed for a date two months from the mail date of the nonreceived Office Action.

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

Leonard Smith
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#7

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09 JAN 2006

THOMAS HAMILTON
SYNGENTA CROP PROTECTION, INC.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409

In re Application of	:	
BEAN et al.	:	
Application No.:10/502,628	:	DECISION ON
PCT No.: PCT/GB03/00615	:	
Int. Filing Date: 12 February 2003	:	PETITION
Priority Date: 26 February 2002	:	
Attorney Docket No.: PPD 50371/UST	:	UNDER 37 CFR 1.181
For: Glyphosate Formulation	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.181" filed 21 December 2005 requesting relief based on non-receipt of the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)".

BACKGROUND

On 12 August 2005, applicants filed a petition to revive including a statement that a Notification of Missing Requirements mailed on 06 January 2005 was never received by SYNGENTA at the address associated with the Customer Number 26748. Filed with the petition was a statement from Susan Keefer, who is in charge of handling incoming mails. Applicant also indicated filing of a docket record with the petition. However, the Office did not receive the docket record. The petition authorized the charge of $130 for petition fee and $130 for the surcharge fee. In addition, applicant submitted executed declarations from the inventors.

On 21 November 2005, the Office dismissed the petition without prejudice based on the missing docket report. In the decision, the Office required for showing a report docketed for a date two months from the mail date of the nonreceived Office Action, which is 06 March 2005.

On 21 December 2005, applicant filed a renewed petition with a copy of the docket report stamped with an acknowledgement of receipt on 12 August 2005 from the Patent and Trademark Office. The docket report covers the period of 01 January 05 to 01 March 2005. A copy of the envelope marked 'return to sender' with a stamp date of 12 August 2005 was also attached with the renewed petition.

DISCUSSION

Pursuant to 1156 OG 53, under the section "Withdrawing the Holding of Abandonment When Office Actions are Not Received", the OG Notice states in part

> "The showing required to establish the failure to receive an Office actio[n] must consist of a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the 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."

MPEP 711.03 (c) provides in part that:

" A copy of the docket record where the nonreceived communication would have been entered had it been received and docketed must be attached to and reference 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."

A review of the papers filed 21 December 2005 reveals that the evidence submitted by applicants is *insufficient* to establish that the 06 January 2005 Notification was not received by applicants. The docket report does not cover the period in question. Specifically, the docket report does not cover up to and include the date of 06 March 2005. Thus, what the Office now requires, as set forth in the OG notice, are the docket reports for the law firm for when the response is due. The required evidence is the docket report for the time period of 06 March 2005 (when the oath or declaration fees were due).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **Dismissed Without Prejudice**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

A proper response must include a docket report showing all replies docketed for a date two months from the mail date of the nonreceived Office Action.

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

Leonard Smith
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8 FEB 2006

SYNGENTA CROP PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO, NC 27409

In re Application of BEAN et al :
U.S. Application No.: 10/502,628 :
PCT Application No.: PCT/GB03/00615 : DECISION
Int. Filing Date: 12 February 2003 :
Priority Date Claimed: 26 February 2002 :
Attorney Docket No.: PPD 50371 :
For: GLYPHOSATE FORMULATION :

This is in response to applicant's "Renewed Petition Under 37 CFR 1.181" filed 02 February 2006.

BACKGROUND

On 12 February 2003, applicant filed international application PCT/GB03/00615, which claimed priority of an earlier United Kingdom application filed 26 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 04 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 26 August 2004.

On 23 July 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 January 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.

On 12 August 2005, applicant filed a petition to withdraw a holding of abandonment under 37 CFR 1.181 along with executed declarations.

On 21 November 2005, this Office mailed a decision dismissing the 12 August 2005 petition.

On 21 December 2005, applicant filed a renewed petition under 37 CFR 1.181.

On 09 January 2006, this Office mailed a decision dismissing the 21 December 2005 petition.

On 02 February 2006, 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 06 March 2005 for all cases handled by the representative's firm. 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 application has an International Filing Date under 35 U.S.C. 363 of 12 February 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 12 August 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
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PCT Legal Office

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

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

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OFFICE OF PETITIONS

In re Application of :
ZHOU, Xiao Bo :
Application No. 10/502,678 : DECISION GRANTING PETITION
Filed: April 14, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **470-044717** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 29, 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 November 5, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3682 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[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.*

02 DEC 2004

#3

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Princeton, New Jersey 08542

In re Application of :
DETIG, Robert H. :
Application No.: 10/502,699 : DECISION ON PETITION
PCT No.: PCT/US02/06279 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 04 March 2002 :
Priority Date: 02 March 2001 :
Attorney Docket No.: 2349-106US :
For: PROCESS FOR THE MANUFACTURE OF LARGE AREA ARRAYS OF DISCRETE COMPONENTS

The petition to revive under 37 CFR 1.137(b) filed 27 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

Deposit Account No. 23-3040 will be charged a $665.00 petition fee under 37 CFR 1.17(m).

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

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Richard J. Minnich
Fay, Sharpe, Fagan, Minnich & McKee, LLP
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Cleveland, OH 44114-2579

In re Application of
NAKAYAMA et al.
Application No.: 10/502,702
PCT No.: PCT/JP03/00865
Int. Filing Date: 29 January 2003
Priority Date: 29 January 2002
Attorney Docket No.: TOMI200004
For: TRACKBALL

DECISION

This decision is in response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated Office" filed in the Patent and Trademark Office (PTO) on 13 June 2005. The papers are being treated as a Petition under 37 CFR 1.182 for the reasons explained below. Applicants are requesting to change the name of the first inventor from Kiichi Nakayama to Takakazu Nakayama. The petition fee has been charged to Deposit Account no. 06-0308, as authorized.

BACKGROUND

On 29 January 2003, applicants filed international application PCT/JP03/00865 which claimed a priority date of 29 January 2002. The international application named Kiichi Nakayama and Nobuharu Hama as applicants/inventors. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 August 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, 29 July 2004.

On 27 July 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a preliminary amendment; an executed declaration; and a translation of the international application.

On 14 March 2005, applicants submitted a communication indicating that the name of the first joint inventor was incorrectly listed in the PCT international stage as "Kiichi Nakayama due to typographical/clerical error."

On 16 March 2005, 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 13 June 2005, applicants filed "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated Office."

DISCUSSION

A review of the declaration reveals that the correct name of the first inventor is Takakazu Nakayama. The Manual of Patent Examining Procedure at §1893.02 states:

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error. Similarly, a typographical or transliteration error in the name of an inventor identified in a previously submitted oath or declaration may be corrected by simply notifying the Office of the error. A new oath or declaration is not required to correct such error. See MPEP § 201.03 and 605.04(g).

Applicants state that the error was due to a "typographical/clerical error." It is noted that clerical errors are not considered typographical or transliteration errors pursuant to MPEP §201.03. Further, in that this is clearly more than a mere typographical error or a phonetic misspelling of applicant's given name on the published international application, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. The Manual of Patent Examining Procedure at §605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The Statement/Declaration of Takakazu Nakayama has been reviewed and is approved. The declaration submitted on 27 July 2004 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Kiichi Nakayama to Takakazu Nakayama is **GRANTED**.

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

Anthony Smith
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Fax: 571-273-0459

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OFFICE OF PETITIONS

In re Application of :
OISHI, et al. :
Application No. 10/502,709 : DECISION GRANTING PETITION
Filed: July 26, 2004 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. **89277.0035** :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed December 7, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

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

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

IRA S. DORMAN
SUITE 200
330 ROBERTS STREET
EAST HARTFORD, CT 06108

In re Patent No. 7,057,482 :
Issue Date: June 6, 2006 :
Application No. 10/502,725 : ON PETITION
Filed: July 27, 2004 :
Attorney Docket No. QMT-2 :

This is a decision on the petition filed January 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**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of :
Johannes Henricus Van Bijnen, et al. :
Application No. 10/502,730 : ON PETITION
Filed: July 27, 2004 :
Attorney Docket No. NL 020065 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 7, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 8, 2006. *See* MPEP 1215.04.

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, the signature of Dicran Halajian 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). A courtesy copy of this decision is being mailed to petitioner; but, if Mr. Halajian 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 the Appeal Brief and requisite fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

[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.

The application is being referred to Technology Center AU 2816 for appropriate action by the Examiner in the normal course of business on the response filed June 19, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DICRAN HALAJIAN
THORNE & HALAJIAN, LLP
APPLIED TECHNOLOGY CENTER
111 WEST MAIN STREET
BAY SHORE, NY 11706

17 FEB 2005

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Leonard D. Bowersox
Kilyk & Bowersox, PLLC
3603-E Chain Bridge Road
Fairfax, VA 22030

In re Application of :
DE LA VEGA, et al : DECISION ON PETITION
U.S. Application No.: 10/502,761 :
Filing Date: 26 July 2004 : UNDER 37 CFR 1.182
Attorney's Docket No.: 50100221201 :
For: METHODS OF VALIDATING SNPS AND :
COMPILING LIBRARIES OF ASSAYS :

This decision is in response to applicant's "Petition under 37 CFR § 1.182 For Change of Inventor Name and Request For Corrected Filing Receipt" filed 18 January 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 January 2003, applicant filed international application PCT/US03/02240, which claimed priority of an earlier application filed 25 January 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2004.

On 26 July 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 12 January 2005, 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 18 January 2005, applicant filed the present petition under 37 CFR 1.182 seeking to change the name of inventor Hadar Itzhak Avi-Itzhak to Hadar I. Isaac in the National stage in the United States. The petition included payment of a $130.00 petition fee. Applicant is advised that the petition fee is $400.00. As authorized, the difference has been charged to Deposit Account No.: 50-0925.

DISCUSSION

Accompanying the present petition applicant has included a court order detailing the changing of Hadar Itzhak Avi-Itzhak's name to Hadar I. Isaac. The copy of the court order is an

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acceptable form of documentation. However, while Mr. Isaac has executed the declaration, Hadar Itzhak Avi-Itzhak is not listed as an inventor in the published international application. In addition, the filed declaration has been executed by Janet S. Ziegle who is also not listed as an inventor in the published international application. A review of the international application file on record at the USPTO does not show these inventors listed on the filed PCT Request form nor the filing of any requests to add them pursuant to PCT Rule 92bis. If these individuals are not in fact inventors for the subject international application, applicant will need to provide a detailed statement as to why the inventors executed a U.S. National stage declaration listing non-inventors. If they are to be added in the U.S. National stage, applicant should proceed 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).

While applicant has provided sufficient proof regarding the name change under 37 CFR 1.182 regarding Mr. Isaac, a decision on the petition will be held in abeyance awaiting a response as to the inventor discrepancies between the published international application and the filed National stage declaration.

Applicant is advised that beyond the inventor issue, the filed declaration was non-compliant. The declaration contains two second pages, but only one first page. 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.)

CONCLUSION

For the reasons stated above, a decision on applicant's "Petition Under 37 CFR 1.182" is **being held in abeyance**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file a proper response as discussed above. If filing a petition the response should include a cover letter entitled, "Petition Under 37 CFR 1.497(d)." 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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In re Application of :
DE LA VEGA, et al :
U.S. Application No.: 10/502,761 : DECISION ON PETITION
Filing Date: 26 July 2004 :
Attorney's Docket No.: 50100221201 :
For: METHODS OF VALIDATING SNPS AND: COMPILING LIBRARIES OF ASSAYS :

This decision is in response to applicant's "Response to Decision on Petition" filed 05 April 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 February 2005, applicant was mailed a decision explaining that a decision on applicant's petition under 37 CFR 1.182 to change the name of inventor Hadar Itzhak Avi-Itzhak to Hadar I. Isaac was being held in abeyance because of issues related to Mr. Isaac and Janet S. Ziegle not being listed as inventors in the published international application. Applicant was afforded two months to file a response.

On 05 April 2005, applicant filed the response considered herein.

DISCUSSION

Applicant has presently shown that a request to add Hadar I. Isaac and Janet S. Ziegle pursuant to PCT Rule 92bis was filed with the United States Receiving Office (RO/US) on 27 May 2003. However, the request was not forwarded to the International Bureau until 01 April 2005. PCT Rule 92bis.1(b) states: "The international Bureau shall not record the requested change if the request for recording is received by it after the expiration of 30 months from the priority date. The 30 month date for this application expired on 25 July 2004; therefore the International Bureau will not record the change adding Hadar I. Isaac and Janet S. Ziegle as inventors.

In light of the above, applicant should proceed under 37 CFR 1.497(d) to add the inventors in the U.S. National stage.

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(h); 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 presently provided a compliant declaration executed by the actual inventors thus satisfying item (2) above.

As explained in the decision mailed 17 February 2005, applicant has provided sufficient proof regarding the name change under 37 CFR 1.182 regarding Mr. Isaac, a decision on the petition will be held in abeyance awaiting a grantable petition under 37 CFR 1.497(d).

CONCLUSION

For the reasons stated above, a decision on applicant's "Petition Under 37 CFR 1.182" is **being held in abeyance**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file a proper response as discussed above. If filing a petition the response should include a cover letter entitled, "Petition Under 37 CFR 1.497(d)." 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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In re Application of	
DE LA VEGA, et al.	
Application No.: 10/502,761	DECISION ON PETITION
PCT No.: PCT/US03/02240	
Int. Filing Date: 27 January 2003	UNDER 37 CFR 1.182
Priority Date: 25 January 2002	
Atty. Docket No.: 50100221201	
For: METHODS OF VALIDATING SNPS AND COMPILING LIBRARIES OF ASSAYS	

This decision is in response to applicant's "Response to Decision on Petition And Request For Reconsideration" filed 20 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 21 April 2005, applicant was mailed a decision holding a ruling on applicant's petition under 37 CFR 1.182 in abeyance and affording applicant two months to resolve issues regarding the actual inventors for the present National stage application.

On 20 June 2005, application filed the present response.

DISCUSSION

Applicant's present filing contains two Forms PCT/IB/306 showing that Hadar I. Isaac and Janet S. Ziegle were added to the subject international application pursuant to PCT Rule 92bis. An examination of the declaration filed 05 April 2005 shows that the inventors listed therein match the four individuals listed on the published international application plus applicant/inventors Hadar I. Isaac and Janet S. Ziegle. Therefore, applicant has satisfied all remaining issues.

As explained in the decision mailed 17 February 2005, applicant previously provided sufficient proof regarding the name change under 37 CFR 1.182 regarding Mr. Isaac. 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.

CONCLUSION

For the reasons stated above, a decision on applicant's "Petition Under 37 CFR 1.182" to change the name of inventor Hadar Itzhak Avi-Itzhak to Hadar I. Isaac is **GRANTED**.

The application has an international filing date of 27 January 2003 under 35 U.S.C. 363 and will be given a date of **05 April 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.

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#3

24 MAR 2005

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In re Application of	:	DECISION ON
Katz et al	:	
Application No.: 10/502,791	:	
PCT No.: PCT/IL02/00382	:	PETITION UNDER
Int. Filing Date: 16 May 2002	:	
Priority Date: 16 May 2001	:	37 CFR 1.137(b)
Attorney's Docket No.: 27402	:	
For: ACCESS TO PLMN .... NON-PLMN NETWORKS	:	

This decision is in response to applicants' "Petition To Revive Under 37 CFR 1.137," filed on 05 August 2004.

BACKGROUND

On 16 May 2002, this international application was filed, claiming an earliest priority date of 16 May 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 16 November 2003. This international application became abandoned with respect to the United States at midnight on 16 November 2003 for failure to pay the required basic national fee. A copy of the intentional application was transmitted on 21 November 2002 to the USPTO from the International Bureau.

On 05 August 2004, applicants 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 U.S. basic national fee, the copy of the international application, petition under 37 CFR 1.137(b), and the petition fee. However, no executed declaration was submitted at this 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
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#6

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ARLINGTON, VIRGINIA 22202, USA

In re Application of	:	DECISION ON
KATZ et al	:	
PCT No.: PCT/IL02/00382	:	
Application No: 10/502,791	:	
Int. Filing Date: 16 May 2002	:	PETITION UNDER
Priority Date: 16 May 2001	:	
Attorney's Docket No.: 27402	:	
For: ACCESS TO PLMN NETWORKS...	:	
AND NON-PLMN NETWORKS	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a)" faxed on 15 July 2005. The petition fee of 130.00 has been charged to Deposit Account No: 50-1407 as stipulated in the petition.

BACKGROUND

On 16 May 2002, petitioner filed international application PCT/IL02/00382, which claimed priority to an earlier application filed 16 May 2001.

On 05 August 2004, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee, a petition under 37 CFR 1.137(b) and the petition fee.

On 24 March 2005, a decision from this Office granted the "Petition Under 37 CFR 1.137(b)" filed on 05 August 2005.

On 15 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The notice further stated that the items set forth above must be submitted within two months from date of notice or by 32 months from the priority date for the application, in order to avoid abandonment of the national stage application.

On 25 July 2005, petitioner filed the present petition under 37 CFR 1.47(a), a declaration in support of filing on behalf of non-signing inventors Dan Kolkowitz and Yair Karmi accompanied, inter alia, an executed Declaration without their signatures because they refused to sign it. A declaration by Sol Sheinbein has been provided evidencing their refusal.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written

refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1) and (3) of 37 CFR 1.47(a) but not requirements (2) and (4).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1,7(h).

Regarding requirement (2), in this case, it has not been sufficiently demonstrated that a that the non-signing inventors Dan Kolkowitz and Yair Karmi refused to sign the required papers. Sheinbein's declaration states that on April 19, 2004 he mailed to Karmi's last known address the necessary papers for his review and signature and he did so again on August 3, 2004, and Karmi has not mailed back the required papers. Mr. Sheinbein later alleges that received notification from the Israeli Postal Service that the addressee picked it up from the Post Office and signed for it.

Although documentary evidence to support this assertion has been provided such as the postal receipt, the document is in Hebrew and no English translation has been provided. Consequently, it is unclear what is said in that document, and, also, that the name of the person who signed for the documents is that of Yair Karmi.

With respect to non-signing inventor Kolkowitz, Mr. Sheinbein indicates that on June 30, 2004 he mailed to Mr. Kolkowitz's last known address the necessary papers for his review and signature and has Mr. Kolkowitz has not mailed back the required papers. Mr. Sheinbein later alleges that the FedEx Track Shipment shows receipt by the intended recipient. However, a review of the FedEx tracking information shows that no signature was required. Consequently, it is unclear if Mr. Kolkowitz, intended recipient, actually received the documents.

Consequently, the current record does not sufficiently establish their refusal to join in the application because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application them, received by them and that they refused to sign the required papers.

Regarding requirement (3), petitioner has provided a statement of the last known addresses of the nonsigning inventors.

Regarding requirement (4), petitioner has provided a defective executed composite declaration. The composite declaration is defective because it comprises of 1 sheet of page 1, 1 sheet of page 2, 2 sheets of page 3, 2 sheets of page 4. A composite declaration under 37 CFR 1.497(a) and (b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. In this case there appears to be only one set that is.

Copies of the same page is not part of a proper declaration since it is considered a composite declaration and each must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures as required under 37 CFR 1.497(a)(3).

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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

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

22 JUN 2006

UNITED STATES PATENT and TRADEMARK OFFICE

#9

COMMISSIONER FOR PATENTS
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MARTIN MOYNIHAN
PRTSI, Inc.
P.O. Box 16446
Arlington, VA 22215

In re Application of	:	DECISION ON
KATZ et al	:	
PCT No.: PCT/IL02/00382	:	
Application No: 10/502,791	:	
Int. Filing Date: 16 May 2002	:	PETITION UNDER
Priority Date: 16 May 2001	:	
Attorney's Docket No.: 27402	:	
For: ACCESS TO PLMN NETWORKS...	:	
AND NON-PLMN NETWORKS	:	37 CFR 1.47(a)

This is in response to the " RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 27 February 2006.

BACKGROUND

In a decision from this Office on 10 November 2005, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that it was not clear if a copy of the application papers (specification, including claims, drawings) were actually received by the nonsigning inventors as required by MPEP Section 409.03(d). In addition, the composite declaration filed was defective.

On 27 February 2006, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 10 November 2005 with respect to accepting the above application without the signature of the nonsigning 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 the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 27 February 2006 has satisfied item (2) but not (4) under 37 CFR 1.47(a).

With respect to item (2), Mr. Moynihan's averments do sufficiently demonstrate that both nonsigning inventors Yair Karmi and Dan Kolkowitz received a copy of the application papers, and that they refused to sign the required papers. Thus, the conducts of Messrs. Karmi and Kolkowitz are interpreted as a refusal to sign the required papers. Consequently, the current record does sufficiently establish that the nonsigning inventors refused to join in the application because petitioner has shown a *bona fide* attempt was made to deliver the complete application to them and that they refused to sign the required papers.

With respect to item (4), petitioner has still not provided a properly executed composite declaration. As indicated in the last decision, the filed composite declaration is defective because it comprises of 1 sheet of page 1, 1 sheet of page 2, 2 sheets of page 3, 2 sheets of page 4. A composite declaration under 37 CFR 1.497(a) and (b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. In this case there appears to be only one set that is.

Copies of the same page is not part of a proper declaration since it is considered a composite declaration and each must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures as required under 37 CFR 1.497(a)(3).

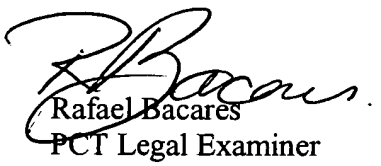
Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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



Rafael Bacares
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06 SEP 2006

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Martin Moynihan
PRTSI, INC.
P.O. BOX 16446
Arlington VA 22215

In re Application of	:	DECISION ON
KATZ et al	:	
PCT No.: PCT/IL02/00382	:	
Application No: 10/502,791	:	
Int. Filing Date: 16 May 2002	:	PETITION UNDER
Priority Date: 16 May 2001	:	
Attorney's Docket No.: 27402	:	
For: ACCESS TO PLMN NETWORKS...	:	
AND NON-PLMN NETWORKS	:	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 20 July 2006.

BACKGROUND

In a decision from this Office on 22 June 2006, the petition filed on 27 February 2006 under 37 CFR 1.47(a) was dismissed. The decision stated that item (4) a properly executed composite declaration was not filed.

On 20 July 2006, applicants submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 22 January 2006 because a complete sets of declarations have been submitted.

DISCUSSION

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

The renewed petition of 20 July 2006 has satisfied the requirements under 37 CFR 1.47(a).

Petitioner has now filed a properly executed composite declaration complying with 37 CFR 1.497(a)(3).

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c) date of **20 July 2006.**

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
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06 SEP 2006

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Dan Kolkowitz
26830 Elena Road
Los Altos, CA 94022

In re Application of
KATZ et al
PCT No.: PCT/IL02/00382
Application No: 10/502,791
Int. Filing Date: 16 May 2002
Priority Date: 16 May 2001
Attorney's Docket No.: 27402
For: ACCESS TO PLMN NETWORKS...
AND NON-PLMN NETWORKS

Dear Kolkowitz:

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

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

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

Martin Moynihan
PRTSI, INC.
P.O. BOX 16446
Arlington VA 22215

06 SEP 2006

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Yair Karmi
16 HaNachlieli Street
75550 Rishon LeZion, Israel

In re Application of
KATZ et al
PCT No.: PCT/IL02/00382
Application No: 10/502,791
Int. Filing Date: 16 May 2002
Priority Date: 16 May 2001
Attorney's Docket No.: 27402
For: ACCESS TO PLMN NETWORKS...
AND NON-PLMN NETWORKS

Dear Karmi:

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

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

Rafael Bacares
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Martin Moynihan
PRTSI, INC.
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Arlington VA 22215

21 APR 2005

#3

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Alexandria, VA 22313-1450
www.uspto.gov

Shane Hunter
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.
One Financial Center
Boston, MA 02125

In re Application of	:	
COLEMAN, et al.	:	DECISION ON PETITION
Application No.: 10/502,837	:	
Filing Date: 28 July 2004	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 21426-017 NATL	:	
For: COMPENSATION DATA PREDICTION	:	

The petition to revive under 37 CFR 1.137(b) filed 28 July 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 17 June 2002 under 35 U.S.C. 363 and will be given a date of **28 July 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

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APR 27 2006

OFFICE OF PETITIONS

In re Application of :
Jenkins et al. :
Application No. 10/502,847 : ON PETITION
Filed: July 29, 2004 :
Attorney Docket No. 124-1088 :

This is a decision on the petition under 37 CFR 1.181, filed April 4, 2006.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed August 31, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on December 1, 2005. A Notice of Abandonment was mailed on March 29, 2006.

The petition to withdraw the holding of abandonment is **DISMISSED AS MOOT** in light of the Technology Center's withdrawal of the Abandonment (April 12, 2006) prior to the rendering of a petition decision.

This application is being forwarded to Art Unit 2874 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Robin R. Oder, et al. :
Application No. 10/502,861 : DECISION ON PETITION
Filed: July 28, 2004 : TO WITHDRAW
Attorney Docket No. 4042-044243 : 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 22, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to The Webb Law Firm, PC has been revoked by the assignee of the patent application on April 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: BARBARA E. JOHNSON
ATTORNEY AT LAW
555 GRANT STREET
SUITE 323
PITTSBURGH, PA 15219

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#3

Katsuhiro Arai
Knobbe Martens Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

In re Application of :
WAKAI, et al. :
U.S. Application No.: 10/502,877 : DECISION ON PETITION
PCT No.: PCT/JP02/03186 :
Int. Filing Date: 29 March 2002 : UNDER 37 CFR 1.137(b)
Priority Date: 29 March 2001 :
Attorney Docket No.: KOD67B.002APC :
For: COATED PAPER FOR PRINTING :

The petition to revive under 37 CFR 1.137(b) filed 26 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

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

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Commissioner for Patents
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WOLF, BLOCK, SCHORR
& SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK, NY 10177

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of :
Galia GOLODETZ et al :
Application No. 10/502,879 : DECISION ON PETITION
Filed: April 27, 2005 : TO WITHDRAW
Attorney Docket No. 600204587-6UEW : 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 June 28, 2005.

The request is **NOT APPROVED**.

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.

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: HEWLETT PACKARD COMPANY
P.O. BOX 272400,
3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY
ADMINISTRATION
FORT COLLINS, CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOLF, BLOCK, SCHORR AND SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK, NY 10177

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MAR 03 2008

In re Application of	:	
Galia GOLODETZ, et al	:	
Application No. 10/502,879	:	DECISION ON PETITION
Filed: April 27, 2005	:	TO WITHDRAW
Attorney Docket No. 600204587-6UEW	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 2, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, Consistent with discussions with former client, files were transferred to new firm, does not meet any of the conditions set forth in 37 CFR 10.40.

The request cannot be approved because the attorneys being withdrawn are greater than the attorneys appointed.

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

There is an outstanding Office action mailed December 10, 2007 that requires a reply by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HEWLETT PACKARD COMPANY
PO BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINSTRATION
FORT COLLINS, CO 80527-2400

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

Mail Date: 04/21/2010

Applicant	: Zhimin Chen	: DECISION ON REQUEST FOR
Patent Number	: 7580371	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/502,906	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1187** 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.

#5

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Wood, Herron & Evans, LLP
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

In re Application of	:	
Codos	:	
Application No. 10/502,916	:	DECISION ON
PCT No.: PCT/US02/21094	:	
Int. Filing Date: 02 July 2002	:	PETITION UNDER
Priority Date: 03 July 2001	:	
Atty. Docket No.: GRIB-111US	:	37 CFR 1.137(b)
For: Flanged Panel Former	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 28 July 2004.

BACKGROUND

This international application was filed on 02 July 2002, claimed an earliest priority date of 03 July 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 03 January 2004. 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.

A review of the application reveals that in addition to satisfying the requirements under 37 CFR 1.137(b) for revival, applicants have also satisfied the requirements of 35 U.S.C. 371 for entry into the national stage in the United States.

DECISION

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

Counsel's Deposit Account No. 23-3000 is being charged in the amount of $130.00 for the surcharge under 37 CFR 1.492(e), as authorized by the Transmittal Letter.

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 **28 July 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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SEP 0 8 2008

In re Application of :
Guoshun Deng :
Application No. 10/502,921 : DECISION ON PETITION
Filed: February 15, 2005 : TO WITHDRAW
Attorney Docket No. 12626/3 : 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 20, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

The Office cannot further 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).

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Poisinelli, Shalton, Flanigan, Suelthaus, PC
Attn: Mr. Timothy J. Keefer
Two Prudential Plaza
180 N. Stetson Avenue
Suite 4525
Chicago, IL 60601

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700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

MAILED

AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Guoshun Deng, et al.
Application No. 10/502,921
Filed: February 15, 2005
Attorney Docket No. 055714.000300.01USPC

ON PETITION

This is a decision in response to the petition, filed June 16, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 1, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 2, 2008. A Notice of Abandonment was mailed on December 3, 2008. On June 16, 2009, the present petition was filed.

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

The application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the amendment received June 16, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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 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, 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.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of:
BOLTSHAUSER, MARK
Serial No. 10/502,939
Filed: Jul. 29, 2004
Docket: 37960-000104/US
Title: DOSING BODY WITH AN EXTERNAL BASE COVERING, METHOD AND DEVICE FOR APPLYING THE BASE COVERING

3/12/09

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Feb. 27, 2009 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed on Nov. 20, 2008.

The petition is granted.

It is noted that the record does show that in the amendment filed on August 6, 2008, the applicant did not add any limitations regarding "jacket-like" in claim 1. Therefore, the rejection of claim 1 under the second Paragraph of 35 U.S.C. § 112 was not necessitated by the amendment of August 6, 2008. Since no amendment was made in claims 23, 24 and 30 in the August 6, 2008 amendment, thus, the rejection of claims 23, 24 and 30 under 35 U.S.C. § 101 was not necessitated by the amendment.

As such, the finality of the Office actions issued on November 20, 2008 is premature and the finality of the Office action is hereby withdrawn. The Office action mailed on November 20, 2008 will be designated as non-final Office action. Since the finality is being withdrawn, the amendment filed on January 21, 2009 in response to the Office action of November 20, 2008 has been treated as a 37 CFR § 1.111 amendment. The amendment of November 20, 2008 now has been entered for consideration. The examiner has been requested to issue a new Office action.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit 3781 for consideration of the amendment filed on November 20, 2008. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

for

Karen M. Young, Director
Technology Center 3700

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Thomas E Loop
Barnard Loop & McCormack
Po Box 58888
Seattle WA 98138-1888

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of :
ZAGUMENNYI et al :
Application No. 10/502,960 : DECISION ON PETITION
Filed: July 29, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 790120.401 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed July 21, 2005, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I, or in the alternative under 37 CFR 1.102(c)(2)(iii), to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition based on prospective manufacture is **DISMISSED**.

The petition based on countering terrorism is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
>
> If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity
>
> immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirements set forth above for special status because it lacks item (C) above. The statement by attorney of record includes the language "assuming that present negotiations reach a mutually satisfactory conclusion, NGC/Synoptics will obligate itself to manufacture Zecotek's LFS scintillation materials..." is not a proper statement under (C) because it is indefinite.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

69 Fed. Reg. 56511 (Sept. 21, 2004) states that the "materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism." Furthermore "applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism." Response to Comment 65, Id.

The instant petition does not include sufficient material evidence for countering terrorism. The specification and claims as originally filed provide no indication of an intention to counter terrorism. While the disclosed and claimed LFS scintillation materials may be beneficial to three-dimensional positron-electron computer tomography (PET), there is no material evidence that it actually "counters" terrorism. Further steps would be required to actually offset or nullify terrorism, and the invention appears to be only tangentially related to countering terrorism.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The required fee of $130 for the petition under 37 CFR 1.102(d) and MPEP § 708.02, Section I: Manufacture has been charged to the petitioner's deposit account.

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

Amelia Au
Petitions Examiner
Office of Petitions

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THOMAS E LOOP
BARNARD LOOP & MCCORMACK
PO BOX 58888
SEATTLE, WA 98138-1888

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Alexander Losifovich Zagumennyi et al :
Application No. 10/502,960 : DECISION ON PETITION
Filed: July 21, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 790120.401 : 37 CFR 1.102(d)
:

This is a decision on the renewed petition under 37 CFR 1.102(d), filed February 7, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (c) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition meets the requirements set out above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1755 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: Pierre Roussouly	: DECISION ON REQUEST FOR
Patent Number	: 7572277	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/503,007	: OF WYETH
Filed	: 02/07/2005	:
		:

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.

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 05/18/2010

Applicant : Pierre Roussouly
Patent Number : 7572277
Issue Date : 08/11/2009
Application No: 10/503,007
Filed : 02/07/2005

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **576** 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** 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 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 deterimation 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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AKERMAN SENTERFITT LLP
8100 BOONE BOULEVARD, SUITE 700
VIENNA, VA 22182-268

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,490,134 :
Issue Date: February 10, 2009 :
Application No. 10/503,011 : DECISION ON PETITION
Filed: July 29, 2004 :
Attorney Docket No. 3883.020 :

This is a decision on the Petition Under 37 CFR 3.81(b) And Request For Certificate Of Correction, filed April 24, 2009, requesting correction on the Title Page of the subject patent to identify the omitted assignees' names. A completed Certificate of Correction Form (PTO/SB-44) was submitted with the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignees' names omitted on the previously submitted PTOL-85B. In effect, Petitioner requests that the assignee information identified on the Title Patent of the patent be changed from "Dentsu, Inc." and listed in order to:

-Dentsu Tec, Inc.
Dentsu, Inc.
Sharp Corporation -

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

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

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a) and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(h) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, as the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form PTO/SB/44 submitted with the present petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,490,134.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
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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NOV 12 2008

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

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NOV

In re Application of :
Kazuma Kaneko :
Application No. 10/503,012 : DECISION DISMISSING PETITION
Filed: July 29, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 18053 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 10, 2008, 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 referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until November 10, 2008 at 5:28 pm, which is after business hours. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carries or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

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

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

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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06 DEC 2006

Sidney L. Weatherford
Ericcson, Inc,
6300 Legacy Drive
M/S EVW 2-C-2
Plano, Texas 75024

In re Application of
LEAHY, William
Application No. 10/503,032
PCT No.: PCT/EP02/01135
Int. Filing Date: 04 February 2002
Priority Date: None
Attorney Docket No.: P1516-US1
For: METHOD AND APPARATUS FOR MULTIPLEXING DIAL-UP INTERNET SESSIONS

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition for Withdrawal of Abandonment under 37 CFR 1.181" filed in the Patent and Trademark Office (PTO) on 06 June 2006. No petition fee is required.

BACKGROUND

On 04 February 2002, applicant filed international application no. PCT/EP02/01135 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 14 August 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 August 2004.

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

On 22 December 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 12 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 22 December 2004.

On 06 June 2006, applicants filed the petition considered herein. The petition requests withdrawal of the holding of abandonment, stating that a response to the Notification Of Missing Requirements was timely filed via facsimile on 21 January 2005.

DISCUSSION

The present petition is accompanied by a document entitled "Response To Notification Of Missing Requirements Under 35 U.S.C. 371" that references an attached declaration, contains the authorization to charge Deposit Account No. 50-1379 the required surcharge, and bears a "Certificate of Transmission by Facsimile" dated 21 January 2005. The Certificate of Mailing, executed by Jacqueline Wilson, states that the accompanying materials were transmitted to the USPTO by facsimile. The petition also includes a copy of an executed declaration, and the confirmation report from applicants' facsimile machine.

The application file does not contain the materials purportedly filed by facsimile on 21 January 2005. In order to confirm the 21 January 2005 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which states the following:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Referring to the statement required by 37 CFR 1.8(b)(3), MPEP § 512 states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission."

The present petition, which is signed by Sidney L. Weatherford, states that the attached materials were submitted by facsimile on 21 January 2005. However, Mr. Weatherford is not the person who executed the Certificate of Transmission, and he does not state "how he has firsthand knowledge of the previous mailing or transmission" as required by MPEP § 512; the petition does not include a confirming statement from Jacqueline Wilson (the person who executed the Certificate Of Mailing on the response materials). Based on the above, the present petition does not satisfy the requirement of 37 CFR 1.8(b)(3).

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above.

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

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

09 FEB 2007

#6

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Sidney L. Weatherford
Ericcson, Inc.
6300 Legacy Drive
M/S EVW 2-C-2
Plano, Texas 75024

In re Application of
LEAHY, William
Application No. 10/503,032
PCT No.: PCT/EP02/01135
Int. Filing Date: 04 February 2002
Priority Date: None
Attorney Docket No.: P15165-US1
For: METHOD AND APPARATUS FOR MULTIPLEXING DIAL-UP INTERNET SESSIONS

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Request to Reconsider Petition to Withdraw Holding of Abandonment under 37 CFR 1.181" filed in the Patent and Trademark Office (PTO) on 02 February 2007. No petition fee is required.

BACKGROUND

On 04 February 2002, applicant filed international application no. PCT/EP02/01135 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 14 August 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 August 2004.

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

On 22 December 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 12 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 22 December 2004.

On 26 June 2006, applicant filed a Petition for Withdrawal of Abandonment under 37 CFR 1.181. In a decision dated 06 December 2006, applicant's petition under 37 CFR 1.181 was dismissed without prejudice.

On 02 February 2007, applicant filed a "Request to Reconsider Petition to Withdraw Holding of Abandonment under 37 CFR 1.181."

DISCUSSION

The present petition is accompanied by a document entitled "Response To Notification Of Missing Requirements Under 35 U.S.C. 371" that references an attached declaration, contains the authorization to charge Deposit Account No. 50-1379 the required surcharge, and bears a "Certificate of Transmission by Facsimile" dated 21 January 2005. The Certificate of Mailing, executed by Jacqueline Wilson, states that the accompanying materials were transmitted to the USPTO by facsimile. The petition also includes a copy of an executed declaration, and the confirmation report from applicants' facsimile machine.

The application file does not contain the materials purportedly filed by facsimile on 21 January 2005. In order to confirm the 21 January 2005 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which states the following:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Referring to the statement required by 37 CFR 1.8(b)(3), MPEP § 512 states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission."

The evidence filed with the present petition is convincing that the 21 January 2005 response included a declaration with a certificate of facsimile transmission. Additionally, applicants have: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items transmitted on 21 January 2005, (2) supplied copies of the previously mailed correspondence; and (3) included a statement by Sidney L. Weatherford which attests on a personal knowledge of the 21 January 2005 transmission. Additionally, petitioner has provided a copy of the sending unit 's report confirming transmission on 21 January 2005.

The declaration submitted on 26 June 2006 will be considered as a timely response to the Notification of Missing Requirements mailed 22 December 2004; however, the declaration will be given a receipt date of 26 June 2006. (See 37 CFR 1.8(a))

Accordingly, it is considered appropriate to withdraw the holding of abandonment.

CONCLUSION

As construed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**. The Notification of Abandonment mailed on 12 June 2006 is hereby **VACATED**.

The application has an international filing date of 04 February 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **26 June 2006**.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
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Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

NOTICE OF WITHDRAWAL

FROM ISSUE
UNDER 37 CFR 1.313(b)

In re Application of
Carrie L. Byington
Application No.: 10/503,033
Filed: June 7, 2005
Attorney Docket No.: 6300.113A.1
For: METHOD FOR CREATING AND USING A TREATMENT PROTOCOL

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to David Vincent 571-272-3080.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Wendy Garber
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

20 JUN 2005

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ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
Intellectual Property Law Offices
502 Washington Avenue, Suite 220
Towson, MD 21204

In re Application of	:	DECISION ON
Colens	:	
Application No.: 10/503,041	:	
PCT No.: PCT/BE2003/000015	:	
Int. Filing Date: 31 January 2003	:	PETITION
Priority Date: 31 January 2002	:	
Attorney's Docket No.: 04235-PCT-PA	:	
For: IMPROVEMENT TO A METHOD FOR	:	
CONTROLLING AN AUTONOMOUS MOBILE	:	
ROBOT AND RELATED DEVICE	:	UNDER 37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 CFR 1.181" filed on 15 February 2005 to accept entry of the above identified application into the national stage with the corrected PCT number of PCT/EP03/00015.

BACKGROUND

On 31 January 2003, this international application was filed, claiming an earliest priority date of 31 January 2002. On 30 July 2004, applicant filed only a transmittal letter for entry into the national stage in the United States, which indicated that the international application was PCT/EP2003/000015. The inventor's name was not provided on the transmittal letter.

On 18 November 2004, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant had failed to provide the Copy of the International Application by 30 months.

On 15 February 2005 petitioner filed the current petition requesting withdrawal of the Notification of Abandonment and stating that the correct application number is PCT/BE2003/000015 and that the name of the inventor is Andre Colens.

DISCUSSION

Applicant states that the USPTO should have received from the IB a copy of the international application PCT/BE2003/0015. However, a review of the file reveals that was insufficient information to correctly identified applicant's transmittal letter with PCT/BE2003/00015 since inventor's name and the correct international application were not provided on the transmittal letter.

Application 10/503,041 became abandoned with respect to the United States at midnight on 31 July 2004 for failure to pay the required basic national fee.

Accordingly, applicants petition to accept these papers with the corrected PCT number of PCT/EP02/03509 for the instant application is dismissed.

Applicant may wish to consider filing a petition under 37 CFR 1.137(b) to revive the above application.

DECISION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be 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
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In re Application of	:	DECISION ON
COLENS	:	
Application No.: 10/503,041	:	
PCT No.: PCT/BE03/00015	:	
Int. Filing Date: 31 January 2003	:	PETITION UNDER
Priority Date: 31 January 2002	:	
Attorney's Docket No.: 04235-PCT-PA	:	
For: IMPROVEMENT TO A METHOD FOR	:	
CONTROLLING AN AUTONOMOUS MOBILE	:	
ROBOT AND RELATED DEVICE	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 14 July 2005.

BACKGROUND

A decision by this Office on 20 June 2005, dismissed the petition filed under 37 CFR 1.181. The decision indicated that application 10/503,041 became abandoned with respect to the United States at midnight for failure to pay the required basic national fee. Therefore, applicant's petition to accept these papers with the corrected PCT number of PCT/EP02/03509 was dismissed. The decision, however, stated that applicant may wish to file a petition under 37 CFR 1.137(b) to revive above application.

On 14 July 2005, applicant filed in the United States Patent and Trademark Office (PTO) 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. 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 proper international application, (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
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PCT Legal Office
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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of :
Christine Lang et al :
Application No. 10/503,044 : DECISION ON REQUEST FOR REFUND
Filed: July 29, 2004 :
Attorney Docket No. 7003/56 :

This is a decision on the Request For Refund filed September 11, 2009 and November 25, 2008.

The request is **granted in part**.

The refund request filed September 11, 2009, based on previous payments of large entity fees is untimely under § 1.28(a). Therefore, the request for refund of the large entity fees is **dismissed**.

The request for refund filed November 25, 2008, of the improper Request for Continued Examination (RCE) fee ($810.00) paid on May 20, 2008, is **granted**. Accordingly, the RCE fee paid on May 20, 2008, will be credited to deposit account no. 50-1047 as requested.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: John N Rassias	: DECISION ON REQUEST FOR
Patent Number	: 7591402	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/503,057	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1271** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 12, 2008

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No 10/503059 patent no7237886

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

Should title be changed?

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: OK

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE

2853
Art Unit

18 APR 2005

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Jeffrey L. Costellia
Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington, DC 20004-2128

In re Application of :
PENKLER :
Application No.: 10/503,067 :
PCT No.: PCT/IB03/00266 : DECISION ON PAPERS
Int. Filing Date: 29 January 2003 :
Priority Date: 01 February 2002 : UNDER 37 CFR 1.42
Attorney Docket No.: 742439-13 :
For: PHARMACEUTICAL COMPOSITION :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The filed combined declaration and power of attorney is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 29 January 2003, applicant filed international application PCT/IB03/00266 which claimed priority to an earlier application filed 01 February 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 August 2004.

On 30 July 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 First Preliminary amendment and an English translation of the international application.

On 10 December 2004, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 08 April 2005, applicant filed the response including an executed combined declaration and power of attorney accompanied by a petition for a two-month extension of time and payment of the appropriate petition fee. With the filing of the petition for a two-month extension of time and payment of the petition fee, the present response is considered timely filed.

DISCUSSION

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

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

The declaration submitted on 08 April 2005 was executed by Barry Paul Daisley as executor of the estate of the deceased inventor, Lawrence John Penkler. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497(b). Specifically, the oath or declaration must provide the citizenship, residence, and mailing address of both the deceased inventor and the signing legal representative, as well as, state the relationship of the signing individual to the non-signing inventor. While the declaration does state that Mr. Daisley is the executor to the estate of the deceased inventor, the declaration and accompanying application data sheet filed on 08 April 2005 only provides the residence, citizenship, and post office address for Mr. Penkler. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b).

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Derek A. Putonen
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05 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, DC 20004-2128

In re Application of	:	
PENKLER.	:	
Application No.: 10/503,067	:	
PCT No.: PCT/IB03/00266	:	DECISION ON RENEWED
Int. Filing Date: 29 January 2003	:	
Priority Date: 01 February 2002	:	PETITION UNDER
Attorney Docket No.: 742439-13	:	
For: PHARMACEUTICAL COMPOSITION	:	37 CFR 1.42

This decision is in response to applicant's "RESPONSE TO DECISION ON PAPERS UNDER 37 C.F.R. 1.42" filed 17 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 18 April 2005, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 17 June 2005, applicant filed the present response.

DISCUSSION

As detailed in the decision mailed 18 April 2005, 37 CFR 1.42 states:

> "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."

A review of the presently filed declaration finds that it is in compliance with 37 CFR 1.497 (a)-(b). It has been executed by the executor of the estate of the deceased inventor. In addition, the filed declaration contains the required residence, post office and citizenship information for both the deceased inventor and the executor of his estate.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 29 January 2003 and a date of **17 June 2005** under 35 U.S.C. 371.

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

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WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of :
SCHWAB, Matthias et al. :
Application No. 10/503,078 : DECISION ON PETITION
Filed: June 13, 2005 : TO WITHDRAW
Attorney Docket No. **106153-0013-101** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2008.

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 FOLEY AND LARDNER LLP has been revoked by the assignee of the patent application on February 01, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ROPES & GRAY LLP**
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

31 MAR 2005

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DYKEMA GOSSETT PLLC
Franklin Square, Third Floor West
1300 I Street, NW
Washingt5on, DC 20005

In re Application of :
GUFFOGG, Phillip *et al* :
Application No.: 10/503,085 :
PCT No.: PCT/GB03/00424 :
Int. Filing Date: 31 January 2003 : **DECISION**
Priority Date: 31 January 2002 :
Attorney Docket No.: 66307-315-7 :
For: POLYAPHRON FUEL COMPOSITIONS :

This decision is in response to applicants' "Request for Corrected Notice of Acceptance and Filing Receipt" filed via facsimile on 27 January 2005 which is hereby **GRANTED** as follows:

A review of the international application shows that a declaration of inventorship under PCT Rule 4.17(iv) was filed in the international application. This declaration complies with 37 CFR 1.497(a) and (b). Applicants entered the national stage on 30 July 2004.

The United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt on 18 January 2005 indicating a date of completion of all of 35 U.S.C. 371 requirements of 30 August 2004. This date is erroneous. The date of completion of all of 35 U.S.C. 371 requirements is 30 July 2004.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 18 January 2005 are both hereby **VACATED**.

This application is being forwarded to the DO/EO/US to mail a corrected Form PCT/DO/EO/903 and a corrected filing receipt indicating the correct information on completion of all of 35 U.S.C. 371 requirements. The application will then be forwarded to Technology Center 1700 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

25 JUL 2005

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of	:	DECISION ON
GUFFOGG et al	:	
Application No.: 10/503,091	:	
PCT No.: PCT/GB03/00421	:	
Int. Filing Date: 31 January 2003	:	PETITION UNDER
Priority Date: 31 January 2002	:	
Attorney Docket No.: 66307-319-7	:	
For: METHOD FOR THE PREPARATION OF	:	
BILIQUID FOAM COMPOSITIONS	:	37 CFR 1.181

This decision is in response to the "REQUEST FOR CORRECTED FILING RECEIPT" received 12 July 2005, which is being treated as a petition under 37 CFR 1.181 requesting that the executed Declaration was properly filed in the international stage for the above application.

BACKGROUND

On 30 July 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application. Applicants submitted an executed Declaration that was provided with the international application PCT/GB03/00421.

On 30 August 2004, applicants filed a second transmittal letter, which was accompanied by an executed declaration in order to satisfy the requirement set forth by 35 U.S.C. 371(c)(4).

On 23 November 2004, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 30 August 2004.

On 12 July 2005, applicants filed the current petition pursuant 37 CFR 1.181 "Request for Corrected Filing Receipt," stating that the inventors filed an executed Declaration with WIPO on 31 January 2003 and a copy was filed with the USPTO on July 30, 2004.

DISCUSSION

A review of the file reveals that applicants/inventors' Declaration did not comply with PCT Rule 4.17. The Declaration (IV) filed on 31 January 2003 was not signed and dated, but the subsequent Declaration filed on 28 March 2003 was signed and dated. However, the latter submitted Declaration did not comply under PCT Rule 4.17 because when a Declaration is furnished after the request, the PCT application number must be indicated within the text. In this instance, the PCT number was not stated so it was an improper Declaration for national stage commencement.

Accordingly, the date that a proper declaration was filed with the USPTO was on 30 August 2004. This is the date that applicants satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371 have been satisfied.

DECISION

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

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

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

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

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FRIEDRICH KUEFFNER
317 MADISON AVENUE
SUITE 910
NEW YORK, NY 10017

COPY MAILED

AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Kathrin Zabrakes :
Application No. 10/503,099 : ON PETITION
Filed: July 28, 2004 :
Attorney Docket No. HKH-03PCT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 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 March 20, 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 (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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2872 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

04 AUG 2005

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FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

In re Application of :
MARTINEZ, Valentin et al. :
Application No.: 10/503,106 : DECISION ON
PCT No.: PCT/GB03/00481 :
Int. Filing Date: 04 February 2003 : PETITION
Priority Date: 04 February 2002 :
Attorney Docket No.: 14620-037US1 : UNDER 37 CFR 1.47(a)
For: THE SYNTHESIS OF NATURALLY OCCURING ECTEINASCIDINS AND RELATED COMPOUNDS :

This is a decision on applicants' "Response to Notification of Missing Requirements," filed in the United States Patent and Trademark Office (USPTO) on 08 June 2005.

BACKGROUND

On 04 February 2003, applicants filed international application PCT/GB03/00481, which claimed a priority date of 04 February 2002. A copy of the international application was transmitted to the Office on 14 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 August 2004.

On 29 July 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 December 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 08 June 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship, three supporting declarations, various exhibits and the fee for a four month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (2), and (3) have been satisfied. Applicants have paid the petition fee. Applicants have attempted to furnish a copy of the application papers and declaration to the non-signing inventor, but Mr.

Manzanares refused receipt. Applicants have attempted to locate a current residential address for Dr. Manzanares, but have not been successful. Correspondence reached Dr. Manzanares at ICIQ Institut Català D'Investigació Química; Av. Países Catalans, s/n; 43007 Tarragona; Spain.

Item (4) has not been satisfied. The declaration lists the first named inventor as "Valentin Martinez Barrasa," but the international application lists "Valentin Martinez." There is no record of a recording of a change under PCT Rule 92*bis*. If there has been a name change or the inventor's name was listed incorrectly in the international application, a petition under 37 CFR 1.182 to change the name is required. MPEP 605.04(c). If the error is in the declaration, a new declaration executed by all of the inventors and an explanation of why the inventors signed a declaration incorrectly identifying the inventor are required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

07 DEC 2006

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BOSTON, MA 02110

In re Application of	
BARRASA, Valentin Martinez et al.	
Application No.: 10/503,106	DECISION ON
PCT No.: PCT/GB03/00481	
Int. Filing Date: 04 February 2003	PETITION
Priority Date: 04 February 2002	
Attorney Docket No.: 14620-037US1	UNDER 37 CFR 1.47(a)
For: THE SYNTHESIS OF NATURALLY OCCURING ECTEINASCIDINS AND RELATED COMPOUNDS	

This is a decision on applicants' Petition Under 37 CFR 1.182, filed in the United States Patent and Trademark Office (USPTO) on 28 September 2005.

BACKGROUND

On 04 August 2005, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition indicating that the declaration was defective and setting a two month period for reply.

On 28 September 2005, applicants filed this petition under 37 CFR 1.182 and a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign 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 non-signing applicant.

Items (1), (2), and (3) were previously satisfied. Applicants have attempted to locate a current residential address for Dr. Manzanares, but have not been successful. Correspondence reached Dr. Manzanares at ICIQ Institut Català D'Investigació Química; Av. Países Catalans, s/n; 43007 Tarragona; Spain.

Item (4) has now been satisfied. Mr. Valentin Martinez Barrasa has filed a petition under 37 CFR 1.182 indicating that he is one and the same inventor listed in the international application as "Valentin Martinez." He indicates that listing him as "Valentin Martinez" was in error, but without deceptive intention on his part. The balance of the petition fee will be charged to deposit account no. 06-1050, as authorized. The declaration now complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **08 June 2005**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

07 DEC 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Ignacio Manzanares
ICIQ Institut Català D'Investigació Química
Av. Países Catalans, s/n
43007 Tarragona
Spain

In re Application of
BARRASA, Valentin Martinez et al.
Application No.: 10/503,106
PCT No.: PCT/GB03/00481
Int. Filing Date: 04 February 2003
Priority Date: 04 February 2002
Attorney Docket No.: 14620-037US1
For: THE SYNTHESIS OF NATURALLY OCCURING ECTEINASCIDINS AND RELATED COMPOUNDS

Dear Dr. Manzanares:

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

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
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PO BOX 1022
MINNEAPOLIS, MN 55440-1022

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SEP 02 2008

Applicant: Martinez, et al.
Appl. No.: 10/503,106
Filing Date: June 8, 2005
Title: THE SYNTHESIS OF NATURALLY OCCURRING ECTEINASCIDINSAND RELATED COMPOUNDS
Attorney Docket No.: 14620-037US1
Pub. No.: US 2007/0093658 A1
Pub. Date: April 26, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 26, 2007, for the above-identified application

Applicant requests that the application be republished because the patent application publication contains material errors wherein there are numerous errors on the front page of the publication and errors in the chemical formula throughout the application.

The request is DISMISSED.

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 omission of an inventor's name and residence, typographical errors in the correspondence address and assignee name do not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[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 errors with respect to the chemical formula may be Office errors, but they are not material Office errors under 37 CFR 1.221. The errors in the specification are not material Office errors under 37 CFR 1.221 because the quality of the text is poor, as it is very small. The errors noted by requestor in the specification are due to the quality of the text, as the text of the chemical formulas is very small. The text is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text is very small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

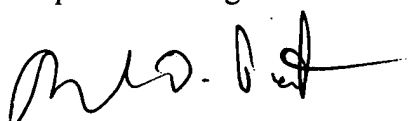
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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, as a "Pre-Grant Publication" 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 O. Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Sarah Smith
Akerman Senterfitt and Eidson PA
222 Lakeview Ave Ste 400
West Palm Beach FL US 33401

In re Application of :
MIYAHIRA et al. :
Application No.: 10/503,112 : DECISION ON PETITION
PCT No.: PCT/JP02/13329 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 19 December 2002 :
Priority Date: 29 January 2002 :
Attorney Docket No.: JP920010398US1 :
For: TRANSLATION METHOD, :
TRANSLATION OUTPUT METHOD . . .

The petition to revive under 37 CFR 1.137(b) filed 30 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the 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.

The declaration submitted on 30 July 2004 is not in compliance with 37 CFR 1.497(a)(3)and 37 CFR 1.63(c)(1) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration fails to identify the citizenship of the three joint-inventors.

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 in compliance with 37 CFR 1.497(a)-(b) is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
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25 JUN 2007

In re Application of :
Toriya et al. :
Application No. 10/503,126 :
PCT No.: PCT/JP03/01337 :
Int. Filing Date: 07 February 2003 : DECISION
Priority Date: 07 February 2002 :
Atty. Docket No.: 257150US3PCT :
For: Processing Device And Method :
Of Maintaining The Device :

This is in response to the petition under 37 CFR 1.181(a)(3) filed on 19 April 2007.

BACKGROUND

This international application was filed on 07 February 2003, claimed an earliest priority date of 07 February 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 14 August 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 09 August 2004 (since 07 August 2004 was a Saturday). Applicants filed *inter alia* the basic national fee on 09 August 2004.

On 19 January 2007, an Office action on the merits was mailed, in which the patent examiner treated claims 1-13 as originally filed.

DISCUSSION

Petitioner requests vacatur of the Office action mailed on 19 January 2007, and examination of the claims as amended under Article 34 during the international phase of prosecution. Petitioner notes that a translation of the annexes to the International Preliminary Examination Report (IPER) was filed on 09 August 2004, resulting in claims 3- 10, 13 and 14 remaining in the case. Based on the totality of the circumstances presented, it would be appropriate to conclude that the Office action mailed on 19 January 2007 was based on the wrong set of claims in that it did not take the annex to the IPER into consideration. Therefore, the Office action mailed on 19 January 2007 is hereby **VACATED**.

CONCLUSION

The petition is **GRANTED**.

This application is being returned to Technology Center 3753 for examination on the merits. Such examination will consider the claims as amended in the translated annex to the IPER (which is described as "Claims" in IFW).

George Dombroske
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02 AUG 2005

#8

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ARENT FOX PLLC
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SUITE 400
WASHINGTON, DC 20036

In re Application of DEL SOLDATO et al	:	
U.S. Application No.: 10/503,128	:	
PCT Application No.: PCT/EP03/02850	:	DECISION
Int. Filing Date: 19 March 2003	:	
Priority Date Claimed: 22 March 2002	:	
Attorney Docket No.: 026220-00049	:	
For: PROBUCOL DERIVATIVES	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(a)" filed 20 July 2005.

BACKGROUND

On 19 March 2003, applicant filed international application PCT/EP03/02850, which claimed priority of an earlier Italy application filed 22 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 22 September 2004.

On 09 August 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 23 December 2004, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 23 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 20 June 2005, this Office mailed a decision dismissing the 23 May 2005 petition.

On 20 July 2005, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The renewed petition states that joint inventor Piero Del Soldato refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application to Del Soldato for signature. Specifically, letters were sent to Del Soldato via registered mail on two separate occasions (see affidavit of Marie Teresa Noro). Furthermore, the renewed petition sufficiently establishes that Del Soldato refuses to sign. In particular, the renewed petition specifically states that Del Soldato's attorney, Fabrizio Conte, signed a copy of each letter that was sent to both Del Soldato and Conte. Given that Del Soldato's attorney received both letters and Del Soldato's continued failure to respond, it is reasonable to conclude that Del Soldato 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 19 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 May 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

02 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Piero Del Soldato
Via Enrico Toti 22
Monza, MI 20052
ITALY

In re Application of DEL SOLDATO et al
U.S. Application No.: 10/503,128
PCT Application No.: PCT/EP03/02850
Int. Filing Date: 19 March 2003
Priority Date Claimed: 22 March 2002
For: PROBUCOL DERIVATIVES

Dear Piero Del Soldato:

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
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Attorney Docket No.: 026220-00049

20 JUN 2005

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P.O. BOX 1450
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ARENT FOX PLLC
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SUITE 400
WASHINGTON, DC 20036

In re Application of DEL SOLDATO et al	:	
U.S. Application No.: 10/503,128	:	
PCT Application No.: PCT/EP03/02850	:	DECISION
Int. Filing Date: 19 March 2003	:	
Priority Date Claimed: 22 March 2002	:	
Attorney Docket No.: 026220-00049	:	
For: PROBUCOL DERIVATIVES	:	

This is in response to applicant's "Petition Under 35 C.F.R. §1.47" filed 23 May 2005.

BACKGROUND

On 19 March 2003, applicant filed international application PCT/EP03/02850, which claimed priority of an earlier Italy application filed 22 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 02 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 22 September 2004.

On 09 August 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 23 December 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 August 2004, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where 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 Piero Del Soldato refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application to Del Soldato for signature. Specifically, letters were sent to Del Soldato via registered mail on two separate occasions (see affidavit of Marie Teresa Noro). However, the petition does not sufficiently establish that Del Soldato refuses to sign. In particular, the letters do not indicate that a refusal to respond within the stated time period would be treated as a refusal to cooperate. Furthermore, the petition does not provide any details of any communication with Del Soldato's attorney, who presumably would be contacted to ascertain Del Soldato's intentions. Thus, it would not be appropriate to conclude at the present time that Del Soldato 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

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOVARTIS VACCINES AND DIAGNOSTICS INC.
CORPORATE INTELLECTUAL PROPERTY R338
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

COPY MAILED

AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Bensi et al. :
Application No. 10/503,135 : ON PETITION
Filed: August 11, 2004 :
Attorney Docket No. 002441.00089 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 23, 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 a further response to the Restriction Requirement; (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 no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCK & CO., INC.
P.O. Box 2000
126 East Lincoln Avenue
Rahway, NJ 07065-0970

In re Application of
CHAPMAN, Kevin T. *et al*
U.S. Application No.: 10/503,155
PCT No.: PCT/US03/02941
Int. Filing Date: 31 January 2003
Priority Date: 04 February 2002
Attorney Docket No.: 21028P
For: GRANZYME B INHIBITORS

DECISION

UNDER

37 CFR 1.42

This decision is in response to declaration submitted with the national stage papers on 28 July 2004 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 28 July 2004, applicant filed papers to enter the national stage for PCT/US03/02941 which was accompanied by, *inter alia*, a declaration executed by the legal representative of a deceased joint inventor.

DISCUSSION

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

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

Applicants have furnished a declaration signed by one of the two listed joint inventors and by Yuan Cheng as legal representative for a deceased joint inventor, Christopher A. Willoughby.

The citizenship, residence and address of both joint inventors (including the deceased inventor) are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). In addition, the citizenship, residence and address of the legal representative are recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

This declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 31 January 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 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.: (571) 272-3302

United States Patent and Trademark Office

#8

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Fay Kaplun & Marcin
150 Broadway
Suite 702
New York NY 10038

11 JAN 2007

In re Application of	:	
Fontcuberta Boj et al.	:	
Application No.: 10/503,156	:	DECISION
PCT No.: PCT/IB03/00315	:	
Int. Filing Date: 30 January 2003	:	ON
Earliest Priority Date: 31 January 2002	:	
Attorney Docket No.: 40140/00401	:	PETITION
For: Process For Detecting Predisposition To A Cardiovascular Disease	:	

The petition to revive under 37 CFR 1.137(b) filed 16 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply, from the due date for the required reply to the filing of a grantable petition under 37 CFR § 1.137(b), was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of an acceptable computer-readable form (CRF) of the "sequence listing," a statement that the contents of the paper copy and the CRF of the sequence listing are the same and contain no new matter, an Application Data Sheet and a Power of Attorney (though it is noted that the declaration filed under PCT Rule 4.17(iv) was in compliance with the requirements of 37 CFR 1.497(a) and (b)). The petition fee accompanied the instant petition. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

On 09 January 2007, the International Bureau confirmed that the declaration under PCT Rule 4.17(iv) was filed with the PCT Request (Form PCT/RO/101). As such, the declaration properly identifies the application to which it is directed. Inspection of the declaration reveals that it is in compliance with the requirements of 37 CFR 1.497(a) and (b).

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **28 July 2004**.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/27/09

TO SPE OF : ART UNIT 2887

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/503,178 Patent No.: 7,273,164---

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 changes Be made?

RoChaun Johnson
Certificates of Correction Branch
703-308-9390 ext. 119

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: The Request for Certificate of Correction filed February 10, 2009 has been considered and approved.

Steven S. Paik **2887**

SPE **Art Unit**

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22 JAN 2007

RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

In re Application of	:	
LAWRENCE et al.	:	
Application No.: 10/503,179	:	DECISION
PCT No.: PCT/GB03/00394	:	
Int. Filing Date: 31 January 2003	:	
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0117US	:	
For: ITEM PRINTING SYSTEM	:	

This is a decision on applicants' "THIRD RENEWED PETITION UNDER 37 CFR 1.47(b)", which has properly been treated as a renewed petition under 37 CFR 1.47(a), filed 16 January 2007 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 31 January 2003, applicants filed international application PCT/GB03/00394, which designated the United States and claimed a priority date of 31 January 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 07 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2004 (31 July 2004 being a Saturday).

On 30 July 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 13 May 2005, 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 15 December 2005, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a

declaration in support of the 37 CFR 1.47(a) petition by Dr. Keith Boden, and copies of several letters sent to the non-signing inventor Anthony Lawrence by Dr. Boden.

On 13 January 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. It was noted that it was not clear whether it was being alleged that non-signing inventor Anthony Lawrence refuses to execute the application or that he cannot be reached after diligent effort. Suggestions to establish one or the other were set forth.

On 15 March 2006, applicants submitted a renewed petition under 37 CFR 1.47(a) which was accompanied by a second declaration of Dr. Keith Boden.

On 15 June 2006, a decision was mailed dismissing applicants' renewed petition under 37 CFR 1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

On 16 January 2007, applicants filed the instant third renewed petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a third declaration of Dr. Keith Boden.

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 13 January 2006, items (1), (3), and (4) have been met.

Item (2) has now been met. Applicants have established that the missing joint inventor Anthony Lawrence 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 **15 December 2005**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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13 JAN 2006

RENNER OTTO BOISSELLE & SKLAR, LLP
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CLEVELAND OH 44115

In re Application of	:	
LAWRENCE et al.	:	
Application No.: 10/503,179	:	DECISION
PCT No.: PCT/GB03/00394	:	
Int. Filing Date: 31 January 2003	:	
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0117US	:	
For: ITEM PRINTING SYSTEM	:	

This is a decision on applicants' "PETITION UNDER 37 CFR 1.47(b)", which has properly been treated as a petition under 37 CFR 1.47(a), filed 15 December 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 January 2003, applicants filed international application PCT/GB03/00394, which designated the United States and claimed a priority date of 31 January 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 07 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2004 (31 July 2004 being a Saturday).

On 30 July 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 13 May 2005, 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 15 December 2005, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a declaration in support of the 37 CFR 1.47(a) petition by Dr. Keith Boden, and copies of several letters sent to the non-signing inventor Anthony Lawrence by Dr. Boden.

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 met.

As to item (2), it is not clear whether it is being alleged that non-signing inventor Anthony Lawrence refuses to execute the application or that he cannot be reached after diligent effort. Communications were sent to Mr. Lawrence's last known address. However, it is not clear whether he resided at this address when these communications were sent. Some type of verification that Mr. Lawrence resides at this address, such as a return receipt with Mr. Lawrence's signature, is required to establish a refusal to sign. If Mr. Lawrence is no longer at this address, steps must be taken to locate his whereabouts and, if he is not located, documentation of those steps must be provided.

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
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15 JUN 2006

#7

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RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

In re Application of	:	
LAWRENCE et al.	:	
Application No.: 10/503,179	:	DECISION
PCT No.: PCT/GB03/00394	:	
Int. Filing Date: 31 January 2003	:	
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0117US	:	
For: ITEM PRINTING SYSTEM	:	

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.47(b)", which has properly been treated as a renewed petition under 37 CFR 1.47(a), filed 15 March 2006 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 31 January 2003, applicants filed international application PCT/GB03/00394, which designated the United States and claimed a priority date of 31 January 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 07 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2004 (31 July 2004 being a Saturday).

On 30 July 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 13 May 2005, 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 15 December 2005, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a declaration in support of the 37 CFR 1.47(a) petition by Dr. Keith Boden, and copies of several letters sent to

the non-signing inventor Anthony Lawrence by Dr. Boden.

On 13 January 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. It was noted that it was not clear whether it was being alleged that non-signing inventor Anthony Lawrence refuses to execute the application or that he cannot be reached after diligent effort. Suggestions to establish one or the other were set forth.

On 15 March 2006, applicants submitted the instant renewed petition under 37 CFR 1.47(a) which was accompanied by a second declaration of Dr. Keith Boden.

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 13 January 2006, items (1), (3), and (4) have been met.

Item (2) has still not been met. Petitioner urges that it does not matter whether it was being alleged that non-signing inventor Anthony Lawrence refuses to execute the application or that he cannot be reached after diligent effort; one or the other has been shown. However, no evidence has been provided to establish that Mr. Lawrence refuses to execute the application. It is mere speculation that Mr. Lawrence resides at one of the addresses, has received the application papers, and refuses to sign. Additionally, applicants have not provided factual proof that the missing joint inventor cannot be reached after diligent effort. MPEP 409.03(d), item I, 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 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. (emphasis added)

Here, only a copy of the returned envelope for the letter mailed 02 August 2005 and copies of

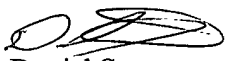
several letters which may or may not have been delivered have been provided. Also, the second declaration of Dr. Boden is not satisfactory. Paragraph 4 states that Dr. Boden "considered an attempt to obtain a telephone number for each of the two previously known addresses of Mr. Lawrence. In England, however, there is no reverse telephone look-up service." However, if either an Internet locator service or the telephone book listed a Mr. Anthony Lawrence at either of the two addresses, a reverse telephone look-up service would not be required. It is not clear whether Mr. Lawrence is listed at either of these addresses in either of these sources. Also, it is not clear whether the owner of the subject application has any phone numbers for Mr. Lawrence. Additionally, the declaration states that an "Internet locator search was also conducted but without success." First, it is not clear who conducted the Internet locator search. As noted above, the declaration should be based on firsthand knowledge. Second, it is not clear why it was considered to be unsuccessful. Third, no copy was provided.

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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#9

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22 JAN 2007

RENNER OTTO BOISSELLE & SKLAR, LLP
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CLEVELAND OH 44115

In re Application of	:	
LAWRENCE et al.	:	
Application No.: 10/503,179	:	DECISION
PCT No.: PCT/GB03/00394	:	
Int. Filing Date: 31 January 2003	:	
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0117US	:	
For: ITEM PRINTING SYSTEM	:	

This is a decision on applicants' "THIRD RENEWED PETITION UNDER 37 CFR 1.47(b)", which has properly been treated as a renewed petition under 37 CFR 1.47(a), filed 16 January 2007 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 31 January 2003, applicants filed international application PCT/GB03/00394, which designated the United States and claimed a priority date of 31 January 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 07 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2004 (31 July 2004 being a Saturday).

On 30 July 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 13 May 2005, 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 15 December 2005, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a

declaration in support of the 37 CFR 1.47(a) petition by Dr. Keith Boden, and copies of several letters sent to the non-signing inventor Anthony Lawrence by Dr. Boden.

On 13 January 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. It was noted that it was not clear whether it was being alleged that non-signing inventor Anthony Lawrence refuses to execute the application or that he cannot be reached after diligent effort. Suggestions to establish one or the other were set forth.

On 15 March 2006, applicants submitted a renewed petition under 37 CFR 1.47(a) which was accompanied by a second declaration of Dr. Keith Boden.

On 15 June 2006, a decision was mailed dismissing applicants' renewed petition under 37 CFR 1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

On 16 January 2007, applicants filed the instant third renewed petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a third declaration of Dr. Keith Boden.

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 13 January 2006, items (1), (3), and (4) have been met.

Item (2) has now been met. Applicants have established that the missing joint inventor Anthony Lawrence 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 **15 December 2005**.

Daniel Stemmer
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Mr. Anthony Lawrence
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Hillingdon
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Middlesex
UB8 3WE

In re Application of
LAWRENCE et al.
Application No.: 10/503,179
PCT No.: PCT/GB03/00394
Int. Filing Date: 31 January 2003
Priority Date: 31 January 2002
Attorney Docket No.: FRYHP0117US
For: ITEM PRINTING SYSTEM

Dear Mr. Lawrence:

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

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

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16 MAY 2008

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In re Application of	:	
LAWRENCE, Anthony et al.	:	
Application No.: 10/503,180	:	DECISION ON
PCT No.: PCT/GB03/00391	:	
Int. Filing Date: 31 January 2003	:	PETITION UNDER
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0114US	:	37 CFR 1.47(b)
For: MOISTENER FOR A MAILING MACHINE	:	

This is a decision on applicant's renewed Petition Under 37 C.F.R. §1.47(b) and applicant's petition to revive under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (USPTO) on 17 March 2008.

BACKGROUND

On 03 July 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice. The petition set a two (2) month extendable time period for reply.

On 17 March 2008, applicant filed a renewed petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

DISCUSSION

Petition 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 application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (3) and (4) have been satisfied.

Item (2) has not been satisfied. The required reply is a grantable petition under 37 CFR 1.47(b) or a declaration in compliance with 37 CFR 1.497(a)-(b).

Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3) and (6) were previously satisfied. (1) The $200 petition fee has been paid. (3) The declaration of Dr. Keith Boden references his letters directed to the inventors. The last known address listed in the letters for Mr. Anthony Lawrence is 6 Peartree House, Goulds Green, Hillingdon, Uxbridge, Middlesex UB8 3TP, United Kingdom and for Mr. Anthony Davies as 33 Seabrook Gardens, Boreham, Essex CM3 3BX, United Kingdom. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant has not attempted to advance this element in this petition.

Item (4) has not been satisfied. Applicant has not provided a declaration in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.47. The declaration is signed by an attorney. Counsel is not permitted to sign an oath or declaration on behalf of an applicant unless he self-certifies or provides documention that he is authorized to bind the assignee. MPEP 324.

Item (5) has not been met. Applicant has not provided sufficient evidence of proprietary interest in the application. Applicant has not provided an assignment or a work agreement in which the inventors agreed to assign the invention to applicant. The statement that Neopost Industrie SA owns the invention is not sufficient. See 409.03(f). Applicant is directed to the requirements of a legal memorandum:

> 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. Id.

CONCLUSION

For the above reasons, applicant's petitions under 37 CFR 1.47(b) and 37 CFR 1.137(b) are **DISMISSED**, without prejudice.

This application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response may be regarded as intentional delay. Any reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.47(b) and 1.137(b)". No additional petition fee is required.

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

/Erin P. Thomson/

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Cleveland OH 44115

In re Application of	:	
LAWRENCE, Anthony et al.	:	
Application No.: 10/503,180	:	DECISION ON
PCT No.: PCT/GB03/00391	:	
Int. Filing Date: 31 January 2003	:	PETITION UNDER
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0114US	:	37 CFR 1.47(b)
For: MOISTENER FOR A MAILING MACHINE	:	

This is a decision on applicant's "Petition Under 37 C.F.R. §1.47(b)," filed in the United States Patent and Trademark Office (USPTO) on 15 December 2005.

BACKGROUND

On 31 January 2003, applicant filed international application PCT/GB03/00391, claiming a priority date of 31 January 2002. A copy of the international application was transmitted to the Office on 07 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2004.

On 30 July 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 13 May 2005, 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 15 December 2005, applicant submitted a petition under 37 CFR 1.47(b) accompanied by the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3) and (6) have been met. (1) The $200 petition fee has been paid. (3) The declaration of Dr. Keith Boden references his letters directed to the inventors. The last known address

listed in the letters for Mr. Anthony Lawrence is 6 Peartree House, Goulds Green, Hillingdon, Uxbridge, Middlesex UB8 3TP, United Kingdom and for Mr. Anthony Davies as 33 Seabrook Gardens, Boreham, Essex CM3 3BX, United Kingdom. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant claims that Mr. Lawrence and Mr. Davies have refused to execute the declaration, but have not provided proof that either was presented with a complete copy of the application papers and has refused to sign. Copies of documentary evidence such as returned mail receipts should be submitted. MPEP 409.03(d). As for Mr. Lawrence, applicant should attempt to locate a current address through internet searches and other appropriate means. Id.

Item (4) has not been satisfied. Applicant has not provided a declaration in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

Item (5) has not been met. Applicant has not provided evidence of proprietary interest in the application. Applicant has not provided an assignment or a work agreement in which the inventors agreed to assign the invention to applicant. The conclusory statement that Neopost Industrie SA owns the invention is not sufficient. See 409.03(f).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". 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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Cleveland OH 44115

In re Application of	:	
LAWRENCE, Anthony et al.	:	
Application No.: 10/503,180	:	DECISION ON
PCT No.: PCT/GB03/00391	:	
Int. Filing Date: 31 January 2003	:	PETITION UNDER
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0114US	:	37 CFR 1.47(b)
For: MOISTENER FOR A MAILING MACHINE	:	

This is a decision on applicant's renewed Petition Under 37 C.F.R. §1.47(b), filed in the United States Patent and Trademark Office (USPTO) on 02 February 2007.

BACKGROUND

On 28 June 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicants' petition without prejudice.

On 02 February 2007, applicants filed this renewed petition. It included a certificate under 37 CFR 1.8, indicating it was deposited with USPS on 29 January 2007.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3) and (6) have been met. (1) The $200 petition fee has been paid. (3) The declaration of Dr. Keith Boden references his letters directed to the inventors. The last known address listed in the letters for Mr. Anthony Lawrence is 6 Peartree House, Goulds Green, Hillingdon, Uxbridge, Middlesex UB8 3TP, United Kingdom and for Mr. Anthony Davies as 33 Seabrook Gardens, Boreham, Essex CM3 3BX, United Kingdom. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has been satisfied as to Mr. Davies, but has not been satisfied as to Mr. Lawrence. Applicant indicates that a declaration of Mr. Boden regarding the attempts to locate Mr. Lawrence has been included. No such declaration is in the application.

Item (4) has not been satisfied. Applicant has not attempted to advance this element with this petition.

Item (5) has not been met. Applicant claims that Neopost Limited owns this application. In the absence of an executed assignment or a signed employment agreement creating a duty to assign and the necessary supporting statements, applicant can provide a legal memorandum as set out in MPEP 409.03(f). The bare assertion that Neopost Limited owns this application is not sufficient.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". 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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2 6 SEP 2008

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In re Application of	:	
LAWRENCE, Anthony et al.	:	
Application No.: 10/503,180	:	DECISION ON
PCT No.: PCT/GB2003/000391	:	
Int. Filing Date: 31 January 2003	:	PETITION UNDER
Priority Date: 31 January 2002	:	
Attorney Docket No.: FRYHP0114US	:	37 CFR 1.47(b)
For: MOISTENER FOR A MAILING MACHINE	:	

This is a decision on applicant's renewed Petition Under 37 C.F.R. §1.47(b) and applicant's petition to revive under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (USPTO) on 16 July 2008.

BACKGROUND

On 16 May 2008, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice. The petition set a two (2) month extendable time period for reply.

On 17 June 2008, the Office mailed Notice of Abandonment, indicating that the application went abandoned for failure to timely respond to the 16 May 2008 decision.

On 16 July 2008, applicant filed a renewed petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

DISCUSSION

Applicant contends that this application is not abandoned and requests that the Notice of Abandonment mailed 17 June 2008 be vacated. This application was abandoned, as clearly stated in the 16 May 2008 decision. The Notice incorrectly stated that the application went abandoned for failure to timely reply to the 16 May 2008 decision. The application went abandoned for failure to timely reply to the 03 July 2007 decision on petition.

Petition 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 application became abandoned and/or applicant first

became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (3) and (4) have been satisfied.

Item (2) has now been satisfied.

Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3) and (6) were previously satisfied. (1) The $200 petition fee has been paid. (3) The declaration of Dr. Keith Boden references his letters directed to the inventors. The last known address listed in the letters for Mr. Anthony Lawrence is 6 Peartree House, Goulds Green, Hillingdon, Uxbridge, Middlesex UB8 3TP, United Kingdom and for Mr. Anthony Davies as 33 Seabrook Gardens, Boreham, Essex CM3 3BX, United Kingdom. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Items (2), (4) and (5) have now been satisfied.

CONCLUSION

For the above reasons, applicant's petitions under 37 CFR 1.47(b) and 37 CFR 1.137(b) are **GRANTED**.

The Notice of Abandonment mailed 17 June 2008 is **VACATED**.

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 referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 17 March 2008.

/Erin P. Thomson/

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26 SEP 2008

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United Kingdom

In re Application of
LAWRENCE, Anthony et al.
Application No.: 10/503,180
PCT No.: PCT/GB2003/000391
Int. Filing Date: 31 January 2003
Priority Date: 31 January 2002
Attorney Docket No.: FRYHP0114US
For: MOISTENER FOR A MAILING MACHINE

Dear Mr. Lawrence:

You are named as an inventor in the above-captioned United States national stage 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. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Don W Bulson
Renner Otto Boiselle & Sklar
1621 Euclid Avenue
19th Floor
Cleveland OH 44115

26 SEP 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Anthony Davies
33 Seabrook Gardens
Boreham, Essex CM3 3BX
United Kingdom

In re Application of
LAWRENCE, Anthony et al.
Application No.: 10/503,180
PCT No.: PCT/GB2003/000391
Int. Filing Date: 31 January 2003
Priority Date: 31 January 2002
Attorney Docket No.: FRYHP0114US
For: MOISTENER FOR A MAILING MACHINE

Dear Mr. Davies:

You are named as an inventor in the above-captioned United States national stage 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. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Don W Bulson
Renner Otto Boiselle & Sklar
1621 Euclid Avenue
19th Floor
Cleveland OH 44115

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/5/09 **Paper No.:** _____

TO SPE OF : ART UNIT 1626 Chung, Susannah

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/503185 Patent No.: 7332514

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

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: _____

/Joseph K. McKane/
SPE

1626
Art Unit

08 APR 2005

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

Richard C. Woodbridge
SYNNESTVEDT LECHNER & WOODBRIDGE
P.O. Box 592
Princeton, NJ 08542-0592

In re Application of	:	
KARLSSON, Petter, et al.	:	
U.S. Application No.: 10/503,194	:	DECISION ON PETITION
PCT No.: PCT/GB03/00448	:	UNDER 37 CFR 1.47(a)
International Filing Date: 03 February 2003	:	
Priority Date: 01 February 2002	:	
Attorney's Docket No.: 5035-181US	:	
For: METHOD OF PROVIDING ACCESS TO PRESENCE RELATED INFORMATION	:	

This decision is issued in response to the "Response To Notification Of Missing Requirements And Petition" filed 28 March 2005, treated herein as a petition under 37 CFR 1.47(a). Applicants submitted $130 as the petition fee; however, the current fee for a petition under 37 CFR 1.47(a) is $200. Deposit Account No. 23-3040 will be charged the remaining $70.

BACKGROUND

On 03 February 2003, applicants filed international application PCT/GB03/00448 which claimed a priority date of 01 February 2002 and which designated the United States. On 07 August 2003, a copy of the international application was communicated to the 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 August 2004.

On 30 July 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 one inventor (Dominic BUTLER) but not executed by the other inventor (Petter KARLSSON).

On 25 January 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of a fully executed oath or declaration and the $130 surcharge for filing the declaration later than thirty months after the priority date.

On 28 March 2005, applicants filed the response considered herein. The response included the required surcharge and a petition requesting acceptance of the application without the signature of Petter KARLSSON, whom applicants state cannot be located after diligent effort.

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 counsel's Deposit Account for the required petition fee, and it 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 filed a declaration executed by one of the two inventors and including an unsigned signature box identifying the nonsigning inventor. This declaration is treated as having been executed by the available inventor on his behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor "cannot be found or reached after diligent effort." Applicant has provided the required firsthand statement demonstrating that the nonsigning inventor cannot be located after diligent effort. Specifically, this statement refers to unsuccessful efforts to mail materials to the inventor, a personal visit to the nonsigning inventor's last known address (confirming that he no longer resided at such address), and unsuccessful internet searches conducted to locate a more current address for the inventor. Item (4) is satisfied.

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 application is accepted without the signature of inventor Petter KARLSSON.

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 30 July 2004.

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

08 APR 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Petter KARLSSON
Flat 11
3 Bath Street
London, EC1
UNITED KINGDOM

In re Application of: KARLSSON, Petter, et al.
U.S. Application No.: 10/503,194
PCT No.: PCT/GB03/00448
International Filing Date: 03 February 2003
Priority Date: 01 February 2002
Attorney's Docket No.: 5035-181US
For: METHOD OF PROVIDING ACCESS TO PRESENCE RELATED INFORMATION

Dear Mr. KARLSSON:

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

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

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

Counsel of Record:
Richard C. Woodbridge
SYNNESTVEDT LECHNER & WOODBRIDGE
P.O. Box 592
Princeton, NJ 08542-0592

2 4 SEP 2008

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of: FUJIWARA ET AL.	:	
U.S. Application No.: 10/503,199	:	
PCT Application No.: PCT/JP2002/12317	:	
Int. Filing Date: 26 November 2002	:	DECISION
Priority Date: 31 January 2002	:	
Atty Docket No.: 50026/046001	:	
For: Methods for Retrotransposing Long Interspersed Elements (Lines)	:	

This is in response to applicants' "REQUEST TO CORRECT NOTICE OF ACCEPTANCE OF APPLICATION", filed 09 March 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 26 November 2002, applicants filed international application PCT/JP2002/12317, which claimed priority of an earlier Japanese application filed 31 January 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 07 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 31 July 2004.

On 30 July 2004, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accomplished by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c) (1).

On 12 May 2006, the DO/EO/US mailed a Notice of Acceptance under U.S.C. 371 (Form PCT/DO/EO/903).

On 09 March 2007, applicants filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notice of Acceptance incorrectly indicated that a preliminary amendment was filed on 30 July 2004. A review of the application file reveals that the preliminary amendment was filed on 23 November 2004, rather than on 30 July 2004.

Accordingly, the preliminary amendment receipt date indicated in the Notice of Acceptance was incorrect.

CONCLUSION

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

The Notice of Acceptance of Application (Form PCT/DO/EO/903) mailed 12 May 2006 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance, which should indicate a preliminary amendment receipt date of 23 November 2004.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3281
Facsimile: 571-273-0459

Katherine Moran
PCT Legal, Detailee
PCT Legal Office

Telephone: 571-272-6095

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James S. Parker
SALIWANCHIK, LLOYD & SALIWANCHIK
PO Box 142950
Gainesville, FL 32614-2950

In re Application of:	:	
BETTS, David, Anthony	:	
U.S. Application No.: 10/496,294	:	DECISION ON PETITION
PCT No.: PCT/GB03/00440	:	
International Filing Date: 03 February 2003	:	
Priority Date: 01 February 2002	:	
Attorney's Docket No.: R&G-105	:	
For: METHOD AND APPARATUS FOR AUDIO SIGNAL PROCESSING	:	

This decision is issued in response to applicant's "Petition Under 37 CFR 1.182 (Accept Application As Filed)" filed 07 January 2005, treated herein as a petition under 37 CFR 1.181.

BACKGROUND

On 03 February 2003, applicant filed international application PCT/GB03/00440 which claimed a priority date of 01 February 2002 and which designated the United States. On 07 August 2003, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 01 August 2004.

On 30 July 2004, applicants claim that a transmittal letter for entry into the national stage in the United States was filed accompanied by, among other materials, payment for the basic national fee.

On 07 January 2005, applicant filed the present petition, accompanied by copies of the materials purportedly filed on 30 July 2004, and a return postcard that itemizes the earlier submission and bears a USPTO receipt stamp dated 30 July 2004. The petition seeks confirmation of the 30 July 2004 filing and issuance of a Notification Of Acceptance and filing receipt.

DISCUSSION

Based on applicant's statements in the present petition, the attached return postcard, and USPTO records confirming the 30 July 2004 fee payment, it is concluded that the materials itemized on the return postcard and attached to the present petition (i.e, the Transmittal Letter, fee payment, declaration, certificate of mailing, and preliminary amendment), were originally filed in the USPTO on 30 July 2004.

A review of the declaration filed 30 July 2004 reveals that it is in compliance with 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials itemized on the return postcard attached to the present petition (i.e., the transmittal letter, executed declaration, preliminary amendment, and fee payment) are considered to have been filed on 30 July 2004.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 30 July 2004.

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

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Commissioner for Patents
United States Patent and Trademark Office
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SEP 22 2008

OFFICE OF PETITIONS

PERKINS COIE LLP
PO BOX 1208
SEATTLE WA 98111-1208

In re Application of :
Kyul-Joo Lee :
Application No. 10/503,209 : ON PETITION
Filed: April 22, 2005 :
Attorney Docket No. 37469-8004.US01 :

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

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 Notice of Non-Compliant Amendment mailed March 29, 2007. This Office action set an extendable period for reply of one month. Applicant filed a reply on April 12, 2007. However, on May 2, 2007, the Office mailed a Failure to Acceptably Respond to Notice of Non-Compliant Amendment. This Notice did not set an additional period for reply. As such, no further reply to the March 29, 2007 Notice having been received, the application became abandoned on April 30, 2007. A Notice of Abandonment was mailed on October 15, 2007.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

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 matter is being forwarded to Group Art Unit 3721 for consideration of the Amendment filed August 21, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Sunbeam Products Inc
2381 NW Executive Center Drive
Boca Raton FL 33431

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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JAN 13 2010

In re Application of :
Lee :
Application No. 10/503,209 :
Filed: April 22, 2005 : ON PETITION
Attorney Docket No. 37469-8004.US01 :
For: VACUUM PACKING MACHINE :

This is a decision on the petition under 37 CFR 1.181, filed June 15, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

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

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to timely pay the issue and publication fees on or before January 22, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 22, 2008.

Petitioner asserts that the October 22, 2008 Notice was not received by practitioner because the failure of the USPTO to enter a power of attorney and change of correspondence address, filed on October 13, 2008, resulted in the October 22, 2008 Notice being directed to an out-of-date address. Therefore, petitioner requests withdrawal of the holding of abandonment and the re-mailing of the Notice with a new period set for reply.

MPEP Section 402.07 states that a power of attorney by an assignee of the entire interest revokes all powers of attorney given by an application and prior assignees if the assignee establishes their right to take action as provided in 37 CFR 3.73(b). See 324.

MPEP Section 324 states that an assignee may establish a right to take action by submitting (1) documentary evidence of the chain of title from the original owner to the assignee and a statement that the chain of title was, or currently is being, submitted for recordation or (2) submitting a reel and frame number where the assignment was recorded.

In the instant case, a Revocation and Power of Attorney with New Power of Attorney and Change of Correspondence Address executed by Lawrence J. Shurupoff, Assistant Secretary of

Sunbeam Products, Inc., was filed on October 13, 2008. Unfortunately, the document was not accompanied by a proper Statement under 37 CFR 3.73(b) or a showing in compliance with MPEP 324.

The Statement under 37 CFR 3.73(b) is not acceptable because only a merger document was provided. The Reel and Frame number for the first assignment from the inventor to Tilia International, Inc. was not provided. A copy of the assignment from the inventor to Tilia International, Inc. was not provided. Thus, the Statement under 37 CFR 3.73(b) was not properly supported.

In short, the Office received a revocation/power of attorney/change of correspondence address signed by a representative of an entity that had not established its right to make the requested changes. Therefore, the Office was not in error when it refused to enter the requested changes and the October 22, 2008 Notice was properly mailed to the correspondence address of record. The petition to withdraw the holding of abandonment due to non-receipt is dismissed.

Petitioner is strongly encouraged to file a petition to revive under the unintentional standard of 137(b). 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).

A courtesy copy of this decision will be mailed to the address listed on the petition. However, until otherwise properly instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: LAWRENCE J. SHURUPOFF
2381 EXECUTIVE CENTER DRIVE
BOCA RATON, FL 33431

UNITED STATES PATENT AND TRADEMARK OFFICE

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

6-10-09

Patent No. : 7,514,452
Ser. No. : 10/503,215
Inventor(s) : Fujii, et. al.
Issued : April 7, 2009

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Raymond D. Smith
Knobbe, Martens, Olson & Bear
2040 Main Street, 14th Floor
Irvine, CA 92614

ej

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 7,514,452
Issued: April 7, 2009
Application No. 10/503,215
Filed: July 30, 2004
Attorney Docket Number: SAEG169.001APC

ON PETITION

This is a decision on the COMMUNICATION REGARDING REQUEST TO CORRECT ASSIGNEE AND REQUEST FOR CERTIFICATE OF CONNECTION, filed June 25, 2009, to correct the assignee's name on the front of the Patent. The petition is treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the name of the assignee was incorrectly identified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to correctly reflect the name of the assignee on the front page of the Letters Patent.

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

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

---

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

A request for a certification of correction was filed June 2, 2009 and was dismissed in a decision mailed June 10, 2009 since the request was not accompanied by a petition under 37 CFR 3.81 and the proper fees.

Office assignment records reflect that DAINIPPON SUMITOMO PHARMA CO., LTD.,is the name of the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hiroshi Fuchikami et al :
Application No. 10/503,219 :
Filed: August 3, 2004 :
Attorney Docket No. DK-US020519

This is a decision on the petition, filed July 25, 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 July 13, 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 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/503,223	08/02/2004	Fawzy Georges	11295-1	6193

25277 7590 11/06/2008

NATIONAL RESEARCH COUNCIL OF CANADA
1200 MONTREAL ROAD
BLDG M-58, ROOM EG12
OTTAWA, ONTARIO, K1A 0R6
CANADA

EXAMINER	
BUI, PHUONG T	

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
11/06/2008	PAPER

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

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

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NOV 0 6 2008

NATIONAL RESEARCH COUNCIL OF CANADA
1200 MONTREAL ROAD
BLDG M-58, ROOM EG12
OTTAWA, ONTARIO K1A 0R6 CA CANADA

In re Application of:	:
Georges et al.	:
Serial No.: 10/503,223	: PETITION DECISION
Filed: August 2, 2004	:
Attorney Docket No.: **11295-1**	:

This is in response to the petition under 37 CFR § 1.181, filed October 27, 2008, requesting that the finality of the Office action of October 10, 2008 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on March 26, 2008 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-11 and 13-16 were pending in the application. The examiner rejected claims 1-11 and 13-16 under 35 U.S.C. 112, second paragraph as being indefinite; rejected claims 1-11 and 13-16 under 35 U.S.C. 112, first paragraph as non-enabling; rejected claims 9-11 under 35 U.S.C. 112, first paragraph as lacking written description; rejected claims 1, 5, 6 and 13-15 under 35 U.S.C. 102 (b) as anticipated by Shi et al.; and rejected claims 1, 5-11 and 13-15 as unpatentable under 35 U.S.C. 103 (a) over Shi et al. and further in view of Das et al.

In response thereto on July 7, 2008, applicants amended claims 1-4, 8, 14-16, cancelled claims 5-7, 9-11 and added new claims 48-52. Applicants also traversed the examiner's rejections.

The examiner mailed a final Office action on October 20, 2008 setting a three month statutory limit for reply. In this final action, the examiner rejected claims 1-4, 8, 13-16 and 48-52 as unpatentable under 35 U.S.C. 103 (a) over Costa e Silva et al in view of Das et al.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on October 27, 2008, requesting that the finality of the Office action of October 20, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on October 27, 2008, applicants argue that "the Office Action dated October 20, 2008 cites new prior art (US 6,720,447) that was not cited in the previous Office Action dated March 26, 2008. A new search was neither necessitated by applicant's amendment of the claims nor by information submitted in an information disclosure statement. The scope of the claims submitted in the amendment dated July 7, 2008 is wholly within the scope of the claims on file at the time of the office action dated March 26, 2008, therefore, the newly cited prior art could have and should have been cited against the claims in the previous office action if the Examiner felt the art was applicable, in order to give the Applicant a proper chance to assess the art and provide response".

It is noted that applicants amended the claims in the amendment of July 7, 2008 by cancelling dependent claims and essentially incorporating those limitations into claim 1. Therefore, these limitations were previously before the examiner. In any event, it can not be said that applicants' amendments necessitated the new ground of rejection. Applicants' arguments are thus found persuasive that the final Office action issued October 20, 2008 was premature and, therefore, finality of the Office action will be withdrawn.

DECISION

The petition is **GRANTED.**

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

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

George C. Elliott

George Elliott
Director, Technology Center 1600

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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS
(6th STREET)
New York, NY 10036-2714

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OCT 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Ivan MATIC : DECISION ON PETITION
Appl. No.: 10/503,226 : UNDER 37 CFR 1.59
Filed: April 21, 2005 :
Attorney Docket No. G5005.0030

This is a decision on the petition under 37 CFR 1.59(b), filed September 29, 2008, to expunge information from the above identified application.

The petition is **GRANTED**.

On September 18, 2008, the Office received information faxed from petitioner in preparation for an upcoming September 19, 2008 interview with the examiner assigned to the application. The U.S. Patent and Trademark Office's Central Fax Number was used and not the examiner's direct fax number. The information was marked "NOT TO BE ENTERED INTO THE RECORD" and the information has not otherwise been made public. Petitioner now requests that the response filed September 18, 2008, be expunged from the record.

As explained in MPEP 724.05 a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) The Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated 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;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The petition has satisfied these requirements and the petition is hereby granted.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application will be forwarded to Technology Center 1600, Art Unit 1633 for actions consistent with this decision.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Cindy Yang
Dickstein Shapiro LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS
41ST Floor
New York, New York 10036-6500

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OCT 0 2 2008

OFFICE OF PETITIONS

In re Application of
Ivan MATIC
Appl. No.: 10/503,226
Filed: April 21, 2005
Attorney Docket No. G5005.0030

: DECISION ON PETITION
: UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed September 29, 2008, to expunge information from the above identified application.

The petition is **GRANTED**.

On September 18, 2008, the Office received information faxed from petitioner in preparation for an upcoming September 19, 2008 interview with the examiner assigned to the application. The U.S. Patent and Trademark Office's Central Fax Number was used and not the examiner's direct fax number. The information was marked "NOT TO BE ENTERED INTO THE RECORD" and the information has not otherwise been made public. Petitioner now requests that the response filed September 18, 2008, be expunged from the record.

As explained in MPEP 724.05 a petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) The Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated 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;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The petition has satisfied these requirements and the petition is hereby granted.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application will be forwarded to Technology Center 1600, Art Unit 1633 for actions consistent with this decision.

Thurman K. Page
Petitions Examiner
Office of Petitions

#4

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Alexandria, VA 22313-1450
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28 JUL 2006

Liniak, Berenato & White
6550 Rock Spring Drive, Suite 240
Bethesda, Maryland 20817

In re Application of
Lee, Brian A.
Application No.: 10/503,232
PCT No.: PCT/US03/02709
Int. Filing Date: 31 January 2003
Priority Date: 31 January 2002
Attorney Docket No.: 7364.138
For: VEHICLE DESK PLATFORM

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition to Withdraw Notice of Abandonment" filed 15 May 2006 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 31 January 2003, applicant filed international application no. PCT/US03/02709 which claimed a priority date of 31 January 2002. Pursuant to 37 CFR 1.495, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 31 July 2004.

On 02 August 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 copy of the international application.

On 10 December 2004, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 May 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

Applicant states that Notification of Missing Requirements mailed 10 December 2004 was not received. With regards to applicant's request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a

statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicant has satisfied items (1), (2), and (3) above.

CONCLUSION

For the reasons above, the request is **GRANTED**. The holding of Abandonment is withdrawn.

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 surcharge for filing the oath or declaration after the thirty-month period is required.

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

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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MAR 03 2010

In re Patent No. 7,507,377	:	DECISION ON REQUEST
Rousseau, et al.	:	FOR
Issue Date: March 24, 2009	:	RECONSIDERATION OF
Application No. 10/503,239	:	PATENT TERM ADJUSTMENT
Filed: April 15, 2005	:	and
Atty Docket No.ROUSSEAU4	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 26, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-six (596) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-three (853) days[1] is **GRANTED to the extent indicated herein.**

---

[1] The "B" delay period is 600 days, not 343 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, 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). The priority date of this application is February 1, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on Monday, August 2, 2004. Thus, "B" delay is 600 days, counting the number of days beginning on August 3, 2007 and ending on March 24, 2009, the date of issuance. See 1.703(b).

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 eight hundred fifty-three **(853)** days.

Telephone inquiries specific to this matter 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 DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,507,377 B2

DATED : Mar. 24, 2009

INVENTOR(S) : Rousseau, 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 (277) days

Delete the phrase "by 277 days" and insert – by 853 days--

OIPE
MAY 06 2008
IAP67
PATENT & TRADEMARK OFFICE

10/503255

C of C

DOCKET NO.: 4731

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE MATTER OF THE PATENT

OF: Ulrich FRIEDRICH et al.

PATENT NO.: 7,277,478 B2

ISSUE DATE: October 2, 2007

Certificate
MAY 09 2008
of Correction

FOR: METHOD FOR TRANSMITTING DATA BETWEEN A BASE STATION AND A TRANSPONDER

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

April 30, 2008

REQUEST FOR THE ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 35 USC 254 AND CERTIFICATE OF MAILING

Dear Sir:

1) The above identified Patent contains printing errors by the USPTO. Please correct the errors as shown on the enclosed Form PTO-1050. For an explanation of the requested changes, please see references AE and AI on the Examiner-signed acknowledgment copy of the First IDS Form PTO-1449 of May 27, 2005, and reference AN on the Examiner-signed acknowledgment copy of the Third IDS Form PTO-1449 of May 15, 2006, both enclosed with the Office Action of March 7, 2007; the original specification at page 4 line 18; the Preliminary Amendment of August 30, 2004 at the fifth line on page 10; and our Voluntary Amendment of April 27, 2007, page 6 claim 11 (now claim 8) line 1 (note that application claim 10 became patent claim 7).

2) Issuance of a Certificate of Correction as soon as possible will be much appreciated.

Respectfully submitted,
Ulrich FRIEDRICH et al. - Patentee

By Walter F. Fasse

WFF:he/4731
Enclosures:
postcard,
Form PTO-1050 (2x)

Walter F. Fasse
Patent Attorney
Reg. No.: 36132
Tel. No.: 207-862-4671
Fax. No.: 207-862-4681
P.O. Box 726
Hampden, Maine 04444-0726

CERTIFICATE OF MAILING:

I hereby certify that this correspondence with all indicated enclosures is being deposited with the U. S. Postal Service with sufficient postage as first-class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Karin Smith - April 30, 2008

Name: Karin Smith - Date: April 30, 2008

RECEIVED-USPTO
Patent Publication
MAY 9 2008

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,277,478 B2

DATED : October 2, 2007

INVENTOR(S) : Friedrich et al.

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

Title page,
Item (56) References Cited
under "FOREIGN PATENT DOCUMENTS"
insert --EP 0473569 03/1992--;

under "OTHER PUBLICATIONS"
insert --C. K. Chow and C. D. Cullum, "Coded Clock Modulation"; IBM Technical Disclosure Bulletin, Vol. 11, no. 11, April 1969, pages 1504-1505, XP002240527, New York, US--

insert --STADLER, Erich; Modulationsverfahren (Modulation Methods), 3rd Edition, 1983, Würzburg, Vogel-Verlag publishers, ISBN 3-8023-0086-6, pages 142-145 (English Translation)--

Column 3,
Line 18, before "interval" replace "th etime" by --the time--;

Column 5,
Line 46, after "unit", replace "MODGON" by --MODCON--;

Column 7,
Line 25 after "claim", replace "1" by --7--.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
Hampden, Maine 04444-0726 U.S.A.

PATENT NO.: 7,277,478

Form PTO 1050 (REV.3-82)

RECEIVED-USPTO
Patent Publication
MAY 9 2008

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,277,478 B2

DATED : October 2, 2007

INVENTOR(S) : Friedrich et al.

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

Title page,
Item (56) References Cited
under "FOREIGN PATENT DOCUMENTS"
insert --EP 0473569 03/1992--;

under "OTHER PUBLICATIONS"
insert --C. K. Chow and C. D. Cullum, "Coded Clock Modulation"; IBM Technical Disclosure Bulletin, Vol. 11, no. 11, April 1969, pages 1504-1505, XP002240527, New York, US--

insert --STADLER, Erich; Modulationsverfahren (Modulation Methods), 3rd Edition, 1983, Würzburg, Vogel-Verlag publishers, ISBN 3-8023-0086-6, pages 142-145 (English Translation)--

Column 3,
Line 18, before "interval" replace "th etime" by --the time--;

Column 5,
Line 46, after "unit", replace "MODGON" by --MODCON--;

Column 7,
Line 25 after "claim", replace "1" by --7--.

ADDRESS OF SENDER: FASSE PATENT ATTORNEYS, P.A.
P. O. BOX 726
Hampden, Maine 04444-0726 U.S.A.

PATENT NO.: 7,277,478

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Patent Publication

MAY 9 2008

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JUN 19 2006

OFFICE OF PETITIONS

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re Application of
Yamazaki, et. al.
Application No. 10/503,261
Filed: July 29, 2004
Attorney Docket No. 26246

DECISION ON REQUEST
TO WITHDRAW FROM
RECORD

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on March 9, 2006.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an Office action mailed May 16, 2006, that requires a response from the applicant.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

07 MAR 2005

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COMMISSIONER FOR PATENTS
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#3

Thomas R Vigil
Welsh & Katz
120 S Riverside Plaza
22nd Floor
Chicago IL 60606-3912

In re Application of
HORTON
Serial No.: 10/503,283
PCT App. No.: PCT/AU03/00097
Int'l Filing Date: 30 January 2003
Priority Date: 30 January 2002
Attorney Docket No.: 9469-92635
For: A VALVE

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 March 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from 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 $150 has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **03 March 2005.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

24 JAN 2005

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RANKIN, HILL, PORTER & CLARK LLP
4080 ERIE STREET
WILLOUGHBY, OH 44094-7836

In re Application of ILIC :
U.S. Application No.: 10/503,298 :
PCT Application No.: PCT/DE02/04416 :
Int. Filing Date: 02 December 2002 : DECISION
Priority Date Claimed: 04 December 2001 :
Attorney Docket No.: FLE-15639 :
For: METHOD AND DEVICE FOR ONE-WAY :
OR TWO-WAY DATA TRANSMISSION :

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 02 August 2004.

BACKGROUND

On 02 December 2002, applicant filed international application PCT/DE02/04416, which claimed priority of an earlier Germany application filed 04 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 12 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 04 June 2004.

International application PCT/DE02/04416 became abandoned as to the United States for failure to timely pay the basic national fee.

On 02 August 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

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

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

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 02 December 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 02 August 2004.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed: June 19, 2008
Patent No. :7,189,656 B2
Ser. No. :10/503300
Inventor(s) :Sadao Sato, et al.
Issued :March 13, 2007
Title: METHOD FOR MANUFACTURING AD-OXIDE –BASED ELECTRIC CONTACT MATERIAL AND PRODUCT OF THE SAME

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Levisohn Berger, LLP
61 Broadway 32nd Fl.
New York, NY 10006

MD/mt

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NEW YORK NY 10022

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AUG 2 9 2008

In re Patent No. 7,189,656
Issued: March 13, 2007
Application No. 10/503,300
Filed: August 2, 2004
Attorney Docket Number: 210.191

ON PETITION

This is a decision on the petition, filed August 1, 2008, 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the name of a second assignee, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

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

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

A request for a certification of correction was filed May 15, 2008 and was dismissed in a decision mailed June 20, 2008 since the request was not accompanied by a petition under 37 CFR 3.81 and the proper fees.

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

Office assignment records reflect that FUJI ELECTRIC FA COMPONENTS AND SYSTEMS CO, LTD is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly charged to the credit card provided as per the authorization in the petition.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

27 SEP 2[redacted]

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Oklahoma City, Oklahoma 73102

In re Application of	:	DECISION ON
Cole et al	:	
Application No.: 10/503,327	:	
PCT No.: PCT/US04/05921	:	PETITION UNDER
Int. Filing Date: 24 February 2003	:	
Priority Date: 24 February 2004	:	
Attorney's Docket No.: 082380-00573	:	
For: CONFIGURABLE BEACON	:	37 CFR 1.10 (e)

This is in response to applicants' "PETITION TO ACCORD FILING DATE FOR EXPRESS MAIL CORRESPONDENCE NOT RECEIVED BY P.T.O (37 C.F.R. 1.10(e))," filed 16 July 2004, which is being treated as a petition under 37 CFR 1.10(e) requesting that the national stage papers/fees for the above-identified international application be considered as received in the United States Patent and Trademark Office (USPTO) on 23 March 2004. No petition fee is required.

BACKGROUND

On 23 March 2004, applicants filed a Transmittal letter (Form PTO-1390) for entry into the national stage in the United States, which was accompanied by, basic national fee and an executed declaration. These papers were assigned application number: 10/490,560 but were not further processed because the papers failed to identify the international application.

On 16 July 2004, applicants filed the present petition that states that the original of the attached copy of correspondence was deposited with the USPS as an Express Mail package, on March 23, 2004, at 4:00 pm.

The submitted petition includes, inter alia, : 1) The specification for PCT International Application No.: PCT/US04/05921, 2) copy of the Request, 3) executed declaration, and 4) a copy of the customer receipt of "Express Mail" Label No. EL452666427US. These papers were assigned application number: 10/503,327 as a national stage application of PCT/US04/05921.

DISCUSSION

The original national stage papers filed 23 March 2004 have been received. Accordingly, the petition under 37 CFR 1.10(e) is dismissed as **MOOT**. As is evident from the above recited facts, applicants submitted a petition papers that were assigned an application number thus

having two application numbers for the above papers. Consequently, the papers filed in application number 10/490,560 are duplicates of application number 10/503,327.

Since processing already begun using the "10/503,327" application number, this file will be used as the official application number. The papers assigned application number 10/490,560 will be placed in the application file of 10/503,327.

Applicants should use application number **10/503,327** in all future communications with the U.S. Patent and Trademark Office. Accordingly, application number 10/490,560 will be made inactive.

Applicants are entitled to a refund for the fees charged to application 10/490,560 and the $1562.00 will be refunded to applicants' Deposit Account No.: 132493.

It is noted that the declaration submitted on 23 March 2004 fails to comply with 37 CFR 1.497(a) since it does not adequately identify the specification it is directed. Note that the docket number on the declaration does not correspond to the number on the specification and the international application is missing from the papers submitted. See MPEP 602 for clarification as various combination of information that serves to adequately identify the application. Because of the requirements for early commencement under 35 USC 371(f) have not been satisfied, further processing of the application will be held in abeyance until 30 months from its priority date unless applicants submit a declaration that correctly identifies executes the specification.

CONCLUSION

For the reasons above, the petition under 37 C.F.R. §1.10(e) is **MOOT**.

The National Stage papers were received by the USPTO on 23 March 2004.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to resume processing under 35 U.S.C. 371 at the earlier of 30 months from the priority date or the submission of an oath or declaration in compliance with 37 CFR 1.497(a-b).

Rafael Bacares
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PCT Legal Office
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Boris Milef
PCT Legal Examiner
PCT Legal Office

06 JAN 2005

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Brent P. Johnson
Sheridan Ross, P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141

In re Application of	:	
WILLIS, et al.	:	DECISION ON PETITION
Application No.: 10/503,337	:	
PCT No.: PCT/GB03/00286	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 23 January 2003	:	
Priority Date: 24 January 2002	:	
Atty. Docket No.: 7096SO-26	:	
For: METHOD AND APPARATUS FOR DEPLOYING ARTICLES IN DEEP WATERS	:	

The petition to revive under 37 CFR 1.137(b) filed 29 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in entering the U.S. National phase was unintentional" is being interpreted to mean 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." If this interpretation is incorrect, applicant must notify the Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. 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 inventors and payment of the appropriate surcharge is required.

Derek A. Putonen
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Tel: (571) 272-3294
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17 MAR 2005

#3

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17 MAR 2005

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Washington, D.C. 20231
www.uspto.gov

Robert M. Siminski
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of :
MOON, et al. : DECISION ON PETITION
Serial No.: 10/503,347 :
PCT No.: PCT/KR02/00804 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 30 April 2002 :
Priority Date: 31 January 2002 :
Atty Docket No.: 2644-000001 :
For: VDSL SYSTEM BASED ON DMT LINE CODING, AND METHOD FOR DETERMINING LENGTH OF CYCLIC PREFIX SAMPLES USING THE SYSTEM: :

This decision is in response to applicant's "status Inquiry" filed 15 February 2005 and "Statement Regarding Uncooperative Inventor" filed 30 July 2004 in the United States Patent and Trademark Office (USPTO). The paper is being treated as a petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Gi-Hong Im. As authorized, the petition fee will be charged to Deposit Account No.: 08-0750.

BACKGROUND

On 30 April 2002, applicant filed international application PCT/KR02/00804 which claimed priority to a previous application filed 31 January 2002.

On 30 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a preliminary amendment and 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." 409.03(d) also states that:

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.

Applicant has not provided any firsthand evidence regarding attempts to provide the alleged non-signing inventor with the application papers nor his alleged refusal to cooperate.

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
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Fax: 571-273-0459

15 SEP 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert M. Siminski
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In re Application of	
MOON, et al.	DECISION ON RENEWED
Serial No.: 10/503,347	
PCT No.: PCT/KR02/00804	PETITION UNDER
Int. Filing Date: 30 April 2002	
Priority Date: 31 January 2002	37 CFR 1.47(a)
Atty Docket No.: 2644-000001	
For: VDSL SYSTEM BASED ON DMT LINE CODING, AND METHOD FOR DETERMINING LENGTH OF CYCLIC PREFIX SAMPLES USING THE SYSTEM:	

This decision is in response to applicant's "Renewed Petition Under §1.47(a)" filed 04 August 2005 to accept the application without the signature of joint inventor Gi-Hong Im.

BACKGROUND

On 17 March 2005, 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 04 August 2005, applicant filed the present renewed petition. As authorized, the three-month extension of time fee will be charged to Deposit Account No.: 08-0750. Applicant's response is therefore considered timely filed.

DISCUSSION

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

Applicant has presently provided sufficient evidence to show that the non-signing inventor was presented with a complete set of application papers and has not returned an execute oath or declaration. Thus, applicant has satisfied the remaining issue from the decision of 17 March 2005

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 April 2002 under 35 U.S.C. 363, and will be given a date of **30 July 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.

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Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
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Richard C. Woodbridge
Woodbridge & Associates, P.C.
P.O. Box 592
Princeton, NJ 08542-0592

In re Application of KARLSSON et al	:	
U.S. Application No.: 10/503,348	:	
PCT Application No.: PCT/GB03/00422	:	
Int. Filing Date: 03 February 2003	:	DECISION
Priority Date Claimed: 01 February 2002	:	
Attorney Docket No.: 5053-182US	:	
For: METHOD OF ACCESSING THE PRESENCE INFORMATION ON SEVERAL ENTITIES	:	

This is in response to applicant's "Response to Notification of Missing Requirements and Petition" filed 31 March 2005, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 03 February 2003, applicant filed international application PCT/GB03/00422, which claimed priority of an earlier United Kingdom application filed 01 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 07 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 01 August 2004.

On 30 July 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 13 December 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 a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 31 March 2005, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventor Petter Karlsson cannot be located. The petition is accompanied by the affidavit of Peter Langley, i.e. the person with apparent firsthand knowledge of attempts to contact Karlsson. Although Mr. Langley states that several letters were sent to Karlsson's last known address, documentary evidence of such letters has not been submitted. Furthermore, the petition does not provide details of any efforts to locate inventor Karlsson by obtaining a forwarding address, by searching telephone directories, or by attempting to reach Karlsson through his former co-workers or his family/friends. Thus, it would not be reasonable to conclude at the present time that Karlsson cannot be found.

With regard to item (3) above, applicant has provided $130.00 towards the requisite petition fee. Applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. $70.00 will be charged to Deposit Account No. 23-3040 as authorized in the petition.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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Facsimile: 571-273-0459

08 JUN 2005

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#2

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Richard C. Woodbridge
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P.O. Box 592
Princeton, NJ 08542-0592

In re Application of KARLSSON et al	:	
U.S. Application No.: 10/503,348	:	
PCT Application No.: PCT/GB03/00422	:	
Int. Filing Date: 03 February 2003	:	COMMUNICATION
Priority Date Claimed: 01 February 2002	:	
Attorney Docket No.: 5053-182US	:	
For: METHOD OF ACCESSING THE PRESENCE INFORMATION ON SEVERAL ENTITIES	:	

This is in response the correspondence filed 13 May 2005, including a declaration executed by joint inventor Petter Karlsson.

The response is a proper reply to the decision mailed 26 April 2005.

The application has an International Filing Date under 35 U.S.C. 363 of 03 February 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 May 2005.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this communication.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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EXXONMOBIL CHEMICAL COMPANY
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AUG 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Waddell et al.	:	
Application Number: 10/503368	:	DECISION ON PETITION
Filing Date: 08/03/2004	:	
Attorney Docket Number:	:	
2002B014/2	:	

This is a decision on the petition filed on 5 July, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 12 March, 2007, for failure to timely reply to the non-final Office action mailed on 11 December, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained. Notice of Abandonment was mailed on 29 June, 2007.

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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.

(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 application is being referred to Technology Center Art Unit 1713 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Donald Bruce Atherton MacMichael	: DECISION ON REQUEST FOR
Patent Number	: 7665633	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/503,370	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1355** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

04 MAR 2005

#3

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Ralph J. Mancini
Akzo Nobel Inc.
7 Livingstone Avenue
Dobbs Ferry, NY 10522-3408

In re Application of	:	
Heinzman	:	
Application No.: 10/503,376	:	
PCT No.: PCT/EP02/13487	:	
Int. Filing Date: 29 November 2002	:	DECISION
Priority Date: 05 December 2001	:	
Attorney Docket No.: ACA 6225 US	:	
For: A Softening Active Composition	:	

The petition to revive under 37 CFR 1.137(b) filed 02 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) 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 $920.00 was provided. The required petition fee of $1330.00 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 of the inventors filed on 02 August 2004 is in compliance with 37 CFR 1.497(a) and (b). The $130.00 surcharge under 37 CFR 1.492(e) is being charged to counsel's Deposit Account No. 01-1350, as authorized by the 02 August 2004 Transmittal Letter.

This application is being forwarded to the United States Designated/Elected Office for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **02 August 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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Tel: (571) 272-3283
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Damien Feron	: DECISION ON REQUEST FOR
Patent Number	: 7655345	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/503,395	: 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 **1057** 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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DEC 21 2007

TECHNOLOGY CENTER 2100

Kevin Dunleavy
Knoble Yoshida & Dunleavy, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103

In re Application of:
Bob Jassen et al.
Application No. 10/503,408
Filed: February 17, 2004
For: METHOD OF SETTING PRIORITY LEVELS IN A MULTIPROGRAMMING COMPUTER SYSTEM WITH PRIORITY SCHEDULING, MULTIPROGRAMMING COMPUTER SYSTEM AND PROGRAM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on 18 November 2004 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of 18 November 2004 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

/Gail Hayes/

Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3591

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/6/06

Paper No.: —

TO SPE OF : ART UNIT 3681

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/503409 Patent No.: 7112156B2

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: _____

C Marmor — SPE

3681 — Art Unit

12 APR 2005

#6

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William G. Conger
BROOKS KUSHMAN
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

In re Application of :
SUTORIK, Anthony, et al. :
U.S. Application No.: 10/503,454 : DECISION ON PETITION
PCT No.: PCT/US03/04849 : UNDER 37 CFR 1.47(a)
International Filing Date: 19 February 2003 :
Priority Date: 19 February 2002 :
Attorney's Docket No.: TAL0101PUSA :
For: MIXED-METAL OXIDE PARTICLES BY :
LIQUID FEED FLAME SPRAY PYROLYSIS OF :
OXIDE PRECURSORS IN OXYGENATED :
SOLVENTS

This decision is issued in response to the "Petition Under 37 CFR 1.47(a)" filed 31 January 2005. Applicants submitted $130 as the petition fee; however, the current fee for a petition under 37 CFR 1.47(a) is $200. Deposit Account No. 02-3978 will be charged the remaining $70.

BACKGROUND

On 19 February 2003, applicants filed international application PCT/US03/04849 which claimed a priority date of 19 February 2002 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 August 2004.

On 03 August 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.

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 a fully executed oath or declaration and the $65 small entity surcharge for filing the declaration later than thirty months after the priority date.

On 31 January 2005, applicants filed a response which included payment of the required surcharge, an extension fee,[1] and the petition considered herein. The petition was accompanied

[1] Applicant included $490 as the small entity fee for a three month extension of time. However, the applicable fee for this extension is $510. Deposit Account No 02-3978 will be charged the remaining $20.

by a declaration executed by four of the five named inventors, and seeks acceptance of this declaration without the signature of the remaining inventor, Tyrone JOHNS, whom applicants state cannot be located after diligent effort.

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 counsel's Deposit Account for the required petition fee, and it 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 filed a declaration executed by four of the five inventors and including an unsigned signature box identifying the nonsigning inventor. This declaration is treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor "cannot be found or reached after diligent effort." Applicants have provided the required firsthand statement demonstrating that the nonsigning inventor cannot be located after diligent effort. Specifically, this statement refers to an unsuccessful effort to mail materials to the inventor at his last known address and an unsuccessful internet search conducted to locate a more current address for the inventor. Item (4) is satisfied.

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 application is accepted without the signature of inventor Tyrone JOHNS.

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 31 January 2005.

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

01 FEB 2005

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#3

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Jennifer A. Haynes, Ph.D.
KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of	:
HARRISON, Gavin et al.	: DECISION ON
US Application No.: 10/503,456	:
PCT Application No.: PCT/NZ03/00010	: PETITION UNDER
Int. Filing Date: 30 January 2003	:
Priority Date: 30 January 2002	: 37 CFR 1.137 (b)
Attorney's File Reference: JAMES97.001APC	:
For: NOVEL MONOCLONAL ANTIBODY AND NEMATODE LARVAL ANTIGENS	:

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 (USPTO) on 02 August 2004 is **GRANTED**.

BACKGROUND

On 30 January 2003, applicants filed international application PCT/NZ03/00010. The international application claims a priority date of 30 January 2002 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 07 August 2003. The deadline for payment of the basic national fee in the United States National Stage was thirty months from the priority date, that is 30 July 2004. The application became abandoned as of midnight on 30 July 2004 for failure to pay the basic national fee.

On 02 August 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) (including a Transmittal Letter and a Preliminary Amendment), and the petition fee of $1330.

DISCUSSION

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

application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage. A proper reply requires payment of the basic national fee and submission of a copy of the international application, if such a copy has not already been communicated by the International Bureau

The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicants' 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). A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notice of Missing Requirements (PCT/DO/EO/905) indicating that a signed oath or declaration of the inventors is due.

Ula Ruddock
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 17, 2008

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/503456 Patent No.: 7326774 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

/Shanon A. Foley/

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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Patent No. 7,326,774 :
Issue Date: February 5, 2008 :
Application No. 10/503,456 : ON PETITION
Filed: April 13, 2005 :
Attorney Docket No. JAMES97.001APC :

This is a decision on the petition under 37 CFR 1.182, filed October 8, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Raymond D. Smith appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Raymond D. Smith desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to the undersigned at (571) 272-4584. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)756-1556.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, Randolph Square Building, 9th Floor, 09/D30-B
FAX No. (571) 270-9753

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Mark Catchpole	: DECISION ON REQUEST FOR
Patent Number	: 7587319	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/503,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1137** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

In re Application of	:
Shigeyuki Yokoyama et al	:
Serial No.: 10/503,486	: PETITION DECISION
Filed: August 5, 2004	:
Attorney Docket No.: 04853.0117	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed August 5, 2004. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

08 SEP 2005
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ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

In re Application of	:	
BOUGAMONT	:	DECISION ON
Application No.: 10/503,489	:	
PCT No.: PCT/FR2003/000344	:	PETITION
Int. Filing Date: 05 February 2003	:	
Priority Date: 06 February 2002	:	UNDER 37 CFR 1.181
Attorney's Docket No.: 06114.0085.PCUS00	:	
For: PUMP LIQUID DISPENSER	:	

This decision is in response to the papers filed 24 March, 28 June, 05 July, 08 August and 10 August 2005 requesting status of the above application. These papers have been treated as a petition under 37 CFR 1.181 to withdraw the Notification of Missing Requirements. The petition is DISMISSED without prejudice.

BACKGROUND

On 05 February 2003, applicant filed international application PCT/FR2003/000344, which claimed priority of an earlier French application filed 06 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 August 2003. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 September 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 August 2004.

On 05 August 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 30 March 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating the applicant must file an English translation of the international application, the processing fee for providing the translation later than 30 months from the priority date, an oath or declaration, and a surcharge for providing the oath or declaration later than 30 months from the priority date. The Notification set a two-month period in which to respond.

On 24 March 2005, the purported assignee filed a Revocation and Power of Attorney. On 28 June and 05 July 2005, applicant filed a copy of the 24 March 2005 paper.

On 08 and 10 August 2005, applicant filed a status inquiry accompanied by copies of the 24 March 2005 and 28 June 2005 papers.

On 10 August 2005, applicant filed a combined declaration and power of attorney by the inventor as required by 35 U.S.C. 371(c)(4), the surcharge for providing the oath or declaration later than 30 months from the priority date, and a fee and three-month extension of time.

DISCUSSION

A review of the revocation and power of attorney filed on 24 March 2005 reveals that it ineffectual to effect a change in the power of attorney or change in correspondence address. Francis Seitz, President, of Rexam Dispensing Systems S.A.S, signed the revocation and power of attorney. Mr. Seitz states that Rexam is the assignee of the patent application. However, no proof was offered as required by 37 CFR 3.73(b). See MPEP 324. Accordingly, the March 30 2005 Notification was properly address to correspondence address of record. The combined declaration and power of attorney filed by the applicant on 10 August 2005, has now change the attorney and correspondence address.

CONCLUSION

An English translation of the international application as required by 35 U.S.C. 371(c)(2) and the $130 processing fee for providing the translation later than 30 months from the priority date are required.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing for preparation and the mailing of a Notification of Defective Response (From PCT/DO/EO/916).

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

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TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Fujiwara et al.	:	
Application No. 10/503,491	:	DECISION ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. M&M-077-USA-PCT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 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 timely pay the issue and publication fees on or before July 21, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 21, 2008, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on July 22, 2008. A Notice of Abandonment was mailed on August 15, 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 (1).

With respect to item (1) petitioner has failed to pay the issue fee of $1,510.00. Petitioner authorized the Office to charge the issue fee to petitioner's deposit account on December 26, 2009, however, petitioner's deposit account has insufficient funds.

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Fujiwara et al.	:	
Application No. 10/503,491	:	DECISION ON PETITION
Filed: August 5, 2004	:	
Attorney Docket No. M&M-077-USA-PCT	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 21, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 21, 2008, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on July 22, 2008. A Notice of Abandonment was mailed on August 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00 (previously paid on December 26, 2009); (2) the petition fee of $1,620.00 (previously paid on December 26, 2009); and (3) a proper statement of unintentional delay.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

18 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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AXYS PHARMACEUTICALS, INC.
180 KIMBALL WAY
SOUTH SAN FRANCISCO, CA 94080

In re Application of LEAHY et al	:	
U.S. Application No.: 10/503,508	:	
PCT Application No.: PCT/US03/03846	:	
Int. Filing Date: 07 February 2003	:	DECISION
Priority Date Claimed: 07 February 2002	:	
Attorney Docket No.: 1029 PCT/US	:	
For: NOVEL BICYCLIC HYDROXAMATES AS INHIBITORS OF HISTONE DEACETYLASE	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 21 December 2004.

BACKGROUND

On 07 February 2003, applicant filed international application PCT/US03/03846, which claimed priority of an earlier United States application filed 07 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 07 August 2004.

On 03 August 2004, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 December 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely pay the basic national fee.

On 21 December 2004, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

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

With regard to item (1), applicant has not provided the required basic national fee under 35 U.S.C. 371. The present petition does not include authorization to charge the basic national fee. Applicant is reminded that facsimile transmission is not permitted for the filing of the basic national fee. See 37 CFR 1.6(d)(3) and 37 CFR 1.8(a)(2)(i)(F).

With regard to item (2), applicant has not 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.

Applicant is advised that a declaration under PCT Rule 4.17(iv) has been received from the International Bureau. This declaration is insufficient because it does not properly identify the application to which it is directed. Specifically, the declaration states, "This declaration is directed to the international application of which it forms a part (if filing declaration with application)." A review of USPTO records indicates that the declaration was submitted on 25 April 2003 and thus was not filed with the international application on 07 February 2003.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) 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), although applicant is reminded that any delay in filing a renewed petition under 37 CFR 1.137(b) must be unintentional. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)".

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

08 JUN 2005

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In re Application of LEAHY et al	:	
U.S. Application No.: 10/503,508	:	
PCT Application No.: PCT/US03/03846	:	
Int. Filing Date: 07 February 2003	:	DECISION
Priority Date Claimed: 07 February 2002	:	
Attorney Docket No.: 1029 PCT/US	:	
For: NOVEL BICYCLIC HYDROXAMATES AS INHIBITORS OF HISTONE DEACETYLASE	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 28 April 2005.

BACKGROUND

On 07 February 2003, applicant filed international application PCT/US03/03846, which claimed priority of an earlier United States application filed 07 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 07 August 2004.

On 03 August 2004, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 10 December 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely pay the basic national fee.

On 21 December 2004, applicant filed a petition under 37 CFR 1.137(b).

On 18 April 2005, this Office mailed a decision dismissing the 21 December 2004 petition.

On 28 April 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which should indicate that a declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
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OFFICE OF PETITIONS

In re Application of :
Alfonso M. Ganan et al. :
Application No. 10/503,509 : DECISION ON PETITION
Filed: February 4, 2003 : TO WITHDRAW
Attorney Docket No. 12713-3 : 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 March 10, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Trevor K. Copeland 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 above address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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William F Lawrence
Frommer Lawrence & Haug
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New York NY 10151

8/25/08

In re Application of:
THOEING, HEINRICH
Serial No.: 10/503,529
Filed: Aug. 4, 2004
Docket: 512100-2042
Title: AIRTIGHT SKIN PACK WITH HIGH WATER-VAPOR IMPERMEABILITY AND AROMA PROTECTION

DECISION ON PETITION

This is a decision on the petition filed on May 15, 2008 by which petitioner requests withdrawal of the restriction requirement mailed May 29, 2007, and that amended non-elected claims 1-9 be rejoined and examined on the merits. In the alternative, petitioner requests that the non-elected dependent method claims 1-9 be rejoined when the elected article claims 10-16 are found allowable in accordance with MPEP § 821.04. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is Granted in Part.

Prosecution History:

A review of the record reveals that on May 29, 2007 a restriction requirement was made between two disclosed and claimed related inventions: I) claims 1-9 drawn to a method for packing piece items in a disposable pack and II) claims 10-16 drawn to a disposable pack, per se. The applicant elected Group II invention of claims 10-16 with traverse during a telephone election on Apr. 12, 2007. On Oct. 29, 2007, the applicant filed an amendment to the non-elected method claims 1-9 by amending the non-elected independent claim 1 and other dependent claims 2-9 depend directly or indirectly on the elected independent claim 10. The applicant argued that the restriction does not meet both requirements for a proper restriction, i.e. must represent patentably distinct invention and be an undue burden on the office (MPEP 803). Claim 1 has been amended to refer to the disposable pack of claim 10 and as such, examination of the claims of Group I and Group II would not represent an undue burden on the office. In addition, as claims 1-9 represent the use of the disposable pack of claim 10, these claims should be rejoined with the claims of Group II when these claims are held allowable.

On Jan. 9, 2008, the examiner made the restriction requirement final with the position that there is an undue search burden on the office. In particular, it would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper. On May 15, 2008, the petitioner filed the instant petition and argued that different classification is not dispositive to show undue search burden in the present application. Petitioner also argues that the applicants amended claim 1 such that the definition of disposable pack of claim 10 was inserted into claim 1. Therefore, it would be necessary to search the same class/subclasses for the invention of Group I. Petitioner also points out that inventions classified in Class 206, subclass *484* are searched and classified in several class/subclasses. The examiner failed to show why an additional search in Class 53, subclass 471 would constitute an undue burden on the office. Therefore, petitioner believes that the examiner has failed to properly establish a "serious burden" that could justify a restriction requirement.

Discussion and Analysis:

The examiner stated that the inventions were distinct because the inventions were related as a product and a process of making in accordance with MPEP 806.05(f)[1]. The restriction requirement is considered proper in that the inventions are distinct for the reasons set forth in the restriction requirement dated May 29, 2007 and each invention would involve a separate classification and a different search. In the non-final Office action May 29, 2007, the examiner stated that the process claims of Group I do not have to be evacuated through the openings. In addition, the examiner indicated that a serious search burden[2] does exist because the inventions have acquired a separate status in the art in view of their different classification.

A careful analysis of the non-elected claims 1-9 and elected claims10-17 does show different searches at least for the text searches for Groups I and II which would be different. The search

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[1] MPEP 806.05(f) [R-5] Process of Making and Product Made A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make another materially different product; or (B) that the product as claimed can be made by another materially different process. Allegations of different processes or products need not be documented. A product defined by the process by which it can be made is still a product claim (In re Bridgeford, 357 F.2d 679, 149 USPQ 55 (CCPA 1966)) and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process; defining the product in terms of a process by which it is made is nothing more than a permissible technique that applicant may use to define the invention. If applicant convincingly traverses the requirement, the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement.

[2] MPEP 808.02 Establishing Burden, states: Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held. Where the * inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:(A) **Separate classification thereof**: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification. (B) **A separate status in the art when they are classifiable together**: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search. (C) **A different field of search**: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown), even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search. Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

stratigies would also be different. For example, the search required for claims 1-9 in class 53 (Package making) which is not required for the article claims 10-16. Search for method claims 1-9 is required to be performed in Class 53/405, 408, 432, 510, 471 (package making methods by evacuating and closing; vacuum or gas treating methods; vacuum or insert atmosphere methods). Whereas the search area for claims 10-16 is primarily in Class: 206 Subclasses 461-471, 531, 534, 534.1, 538, 484, 484.1 (special receptacles, no method claim in class 206).

In the petition, petitioner argues that the non-elected Group I invention would require the similar field of search. Therefore, the claimed inventions presumably should cover the similar fields of search. This line of argument is not convincing to overcome the restriction requirement. It is Office policy that the classification of applications is generally based on the most comprehensive claims (M.P.E.P. § 903) and the examiners are responsible to develop a search strategy and fields of searches (M.P.E.P. § 904.03). In the present application, while some of the search may overlap, petitioner fails to show any evidence that the inventions of Groups I and II would require identical fields of search.

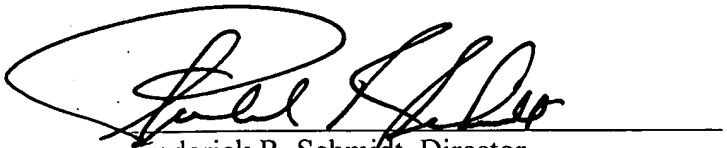
In view of the record, the restriction requirement rendered on May 29, 2007 is considered proper and stands. The examiner properly followed the guidelines set forth in M.P.E.P. § 806.05(f) and 808.02. Therefore, the restriction requirement of May 29, 2007 will not be withdrawn. However, since the applicant has amended the non-elected dependent method claims 1-9 to directly or indirectly depend on the elected article claims 10-16, then, the examiner is directed to consider rejoinder of the non-elected dependent method claims 1-9 upon allowance of the elected article claims 10-16 in accordance with MPEP § 821.04.

Conclusion

For the foregoing reasons, the relief requested by petitioner to withdraw the restriction requirement of May 29, 2007 will not be granted. The alternative relief regarding possibility of rejoinder of non-elected dependent method claims 1-9 upon indication of allowance of elected article claims 10-16 is granted.

The application is being forwarded to Examiner Jila Mohandesi of Art Unit 3728 for preparation of Pre Brief Appeal Conference a requested by the applicant on May 15, 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 C. Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is granted in part.



Frederick R. Schmidt, Director
Technology Center 3700

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ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

In re Application of LOISELEUR et al	:	
U.S. Application No.: 10/503,538	:	
PCT Application No.: PCT/EP03/01188	:	
Int. Filing Date: 06 February 2003	:	DECISION
Priority Date Claimed: 07 February 2002	:	
Attorney Docket No.: ON/4-32295A	:	
For: *N*-PHENYL-2-PYRIMIDINE-AMINE DERIVATIVES	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Reply" filed 27 January 2006, which is being treated under 37 CFR 1.181.

BACKGROUND

On 06 February 2003, applicant filed international application PCT/EP03/01188, which claimed priority of an earlier United Kingdom application filed 07 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 14 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 07 August 2004.

On 04 August 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 January 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.

On 20 January 2005, applicant purportedly filed executed declarations.

On 03 January 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 27 January 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declarations were originally filed on 20 January 2005. Specifically, the copy of the return postcard, which includes the declarations in its itemized contents and which bears a USPTO date stamp of 20 January 2005, serves as *prima facie* evidence that the declarations were received by the USPTO on 20 January 2005.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 03 January 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 06 February 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 January 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
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

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In re Patent No. 7,456,283 :
Loiseleur et al. :
Issue Date: November 25, 2008 : DECISION ON REQUEST FOR
Application No. 10/503,538 : RECONSIDERATION OF
Filed: January 20, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. ON/4-32295A :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT -POST GRANT" filed January 23, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from four hundred sixty-eight (468) days to seven hundred seventy-eight (778) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 468 days.

This application was filed on January 20, 2005. On November 25, 2008, the application matured into U.S. Patent No. 7,456,283, with a revised patent term adjustment of 468 days. The Office determined that the 474 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 506

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 506 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 38 days, the patent issued with a revised patent term adjustment of 468 (506 - 38) days.

On January 23, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 778 days under the court's 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). Specifically, patentees state:

> The 35 U.S.C. § 154(b)(1)(B) period for U.S. Patent No. 7,456,283 began on January 20, 2008 (three years after the filing date of October 15, 2003) and ended on the date of issuance, November 25, 2008. The 35 U.S.C. § 154(b)(1)(B) period is 310 days[5].

---

[2] The application was pending three years and 476 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A first Office action was not mailed until August 8, 2007, fourteen months and 506 days after the date of completion of all 35 U.S.C. 371 requirements on January 20, 2005.

[5] It is believed that patentee erred in citing October 15, 2003, as the filing date for the application. This is further supported by the fact that patentee states that January 20, 2008, is three years after the filing date of October 15, 2003.

> There was no 35 U.S.C. § 154(b)(1)(A)delay that occurred within this 35 U.S.C. § 154(b)(1)(B)period that should be excluded from the patent term adjustment calculation under the holding of *Wyeth v. Dudas*.
>
> Accordingly, the sum of the 35 U.S.C. § 154(b)(1)(B) and non-overlapping 35 U.S.C. § 154(b)(1)(A) delay is (506 +316 days)=816.

Application for Patent Term Adjustment-Post Grant, 01/23/2009, p.3

At the outset, the Office notes that period of delay of 310 days, pursuant to 37 CFR 1.702(b), as set forth by patentees, for the Office taking in excess of three years to issue the patent is incorrect as patentees did not use the correct 35 U.S.C. 371(b) national stage commencement date of Monday, August 9, 2004, in calculating the period of adjustment under 37 CFR 1.703(b). As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) 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 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. While the date of completion of all 35 U.S.C. 371 requirements, January 20, 2005, is the date used in calculation of the examination delay under 37 CFR 1.703(a), the date the national stage commenced under 35 U.S.C. 371(b), Monday, August 9, 2004, is used to determine the Three Year Delay under 37 CFR 1.703(b).

Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 474 days, counting the number of days 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(b), August 10, 2007, and ending on the date the patent issued, November 25, 2008.

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 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.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37*

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[6] 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.

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).

Further, 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 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office (not including any periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 506 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 474 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date the national stage commenced under 35 U.S.C. 371(b).

All of the 474 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 506 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 474 days and the 506 days is neither permitted nor warranted. 506 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 468 days.

The Office acknowledges the previous 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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SUITE 624
TROY MI 48084-3107

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:
Hideki Takeo et al	:DECISION GRANTING FILING
Application No. 10/503,545	:DATE OF August 3, 2004
Filed: August 3, 2004	:
Attorney Docket No. MOr-251-A	:

This is a decision on the petition filed March 4, 2005, which is being treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of August 3, 2004, rather than the presently accorded date of July 30, 2004.

Petitioners allege that the application was deposited in Express Mail service on August 3, 2004. In support, the petition is accompanied by a copy of Express Mail receipt No. EV421421614US (the same Express Mail receipt number appears on the original application transmittal showing a "date in" of August 3, 2004. Additionally, the Internet USPS Express Mail Track and Confirmation, discloses that the package was accepted on August 3, 2004.

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on August 3, 2004.

The petition is **granted**.

The application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **August 3, 2004**, and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

15 DEC 2005

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Flynn Barrison
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of :
ITO, et al. :
Application No.: 10/503,557 : DECISION ON PETITION
PCT No.: PCT/JP03/01868 :
Int. Filing Date: 20 February 2003 : UNDER 37 CFR 1.10
Priority Date: 21 February 2002 :
Atty Docket No.: 09873/0201204-US0 :
For: DIAGNOSTIC REAGENT FOR EVALUATION :
OF PHARMACOLOGICAL EFFECT OF :
MEDICINE, AND METHOD AND REAGENT :
FOR SCREENING PHARMACEUTICAL :
AGENTS COMPRISING ENZYME, ENZYME :
INHIBITOR OR RECEPTORS LIGANT AND/OR :
SMALL SIDE EFFECT :

This decision is in response to applicant's "Request For Corrected Filing Receipt And Notice of Acceptance" originally filed 12 January 2005 in the United States Patent and Trademark Office (USPTO) and currently by facsimile on 12 December 2005. The submission is being treated as a petition under 37 CFR 1.10(c). No petition fee is required

BACKGROUND

On 20 February 2003, applicant filed international application PCT/JP03/01868, which claimed a priority date of 21 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 August 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, 21 August 2004.

On 02 August 2004, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an English translation of the international application; an executed declaration of the inventors; an assignment document for recording; an Information Disclosure Statement and a preliminary amendment.

On 17 December 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) which indicated a date of completion of the 35 U.S.C. 371 requirements as 04 August 2004.

On 12 December 2005, applicant filed the petition considered herein.

DISCUSSION

37 CFR 1.10(c) states that an applicant filing correspondence under 37 CFR 1.10 which is received by the USPTO who can show that there is a discrepancy between the "Date-in" date on the Express Mail label and the date accorded by the USPTO may petition the Director to accord a filing date as of the "Date-in" on the mailing label provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS (United States Postal Service) deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above and it is therefore proper to grant applicant's petition.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/DO/EO/903 mailed 17 December 2004 is hereby **VACATED**.

The application will be given an international filing date of 20 February 2003 under 35 U.S.C. 363 and a date of **02 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above; as well as a corrected filing receipt pertaining to the errors noted on applicant's exhibit.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
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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OFFICE OF PETITIONS

In re Application of	:	
Asuka Ito et al.	:	
Application No. 10/503,557	:	DECISION GRANTING PETITION
Filed: August 2, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10084-0007.00000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1657 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statements.

Sherry Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Patent No. 7,404,945	:	ON PETITIONS
Ito et al.	:	under 37 CFR 1.183
Issue Date: July 29, 2008	:	and
Application No. 10/503,557	:	ON REQUEST FOR RECONSIDERATION
Filed: August 2, 2004	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
10084-0007.00000	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment - Post Grant, both filed on January 23, 2009.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On July 29, 2008, the above-identified application matured into U.S. Patent No. 7,404,945, with a revised patent term adjustment of 356 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37

C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on July 29, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 23, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 29, 2008, the date two months from the date this patent issued, July 29, 2008. Rather, on January 23, 2009, nearly four (4) months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of

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[2] 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180-days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT," filed January 23, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to five hundred ninety-three (593) days.

On July 29, 2008, the above-identified application matured into U.S. Patent No. 7,404,945 with a revised patent term adjustment of 365 days. The instant request for reconsideration was filed more than five months after the issuance of the patent, on January 23, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Pittsburgh, PA 15219-1818

In re Application of :
RIGLER, Rudolph *et al* :
U.S. Application No.: 10/503,562 :
PCT No.: PCT/EP02/14489 :
Int. Filing Date: 18 December 2002 :
Priority Date: 19 December 20001 :
Attorney Docket No.: 4601-044505 :
For: SEQUENCING ON PERFORATED MEMBRANES :

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 with the national stage papers on 03 August 2004 is hereby **GRANTED** as follows:

The basic national fee and petition fee of $665.00 have been paid. Applicants state that "[t]he delay in entering the national phase of this application was unintentional" has been interpreted as meeting the requirements of 37 CFR 1.137(b)(3). If this interpretation is incorrect, applicants should notify the Office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was filed 03 August 2004.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 December 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 August 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Jorg ROMAHN :
Application No. 10/503,606 : DECISION ON PETITION
Filed: July 19, 2005 : TO WITHDRAW
Attorney Docket No. 449122075100 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP, has been revoked by the assignee of the patent application on October 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO, IL 60690

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17 AUG 2006

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of	:	DECISION
WHITTAKER et al.	:	
Application No.: 10/503,609	:	
PCT No.: PCT/IB02/00416	:	
Int. Filing Date: 13 February 2002	:	
Priority Date: None	:	
Attorney Docket No.: (49371) 59025 US	:	
For: SPRAY NOZZLE	:	

This decision is in response to applicants' submission filed 10 July 2006, which included a petition under 37 CFR 1.137(b) to revive the application, a petition under 37 CFR 1.497(d) to delete an inventor, and a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.497(d)(1).

BACKGROUND

On 13 February 2002, applicants filed international application PCT/IB02/00416, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 August 2004.

On 04 August 2004, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation of the international application, and an unexecuted declaration of inventors.

On 11 March 2005, 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 July 2006, applicants filed the instant submission which included, *inter alia*, a petition under 37 CFR 1.137(b) to revive the application, a petition under 37 CFR 1.497(d) to

delete an inventor, and a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.497(d)(1).

DISCUSSION

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the required reply of a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) has not been provided.

As to item (2), applicant submitted the petition fee on 10 July 2006.

As to item (3), a grantable petition has not been presented.

Petition Under 37 CFR 1.183

Applicants are requesting waiver of 37 CFR 1.497(d)(1) with respect to Peter M. Thomson. The petition fee under 37 CFR 1.17(f) for a petition under 37 CFR 1.183 is $400 and has been charged to Deposit Account 04-1105. MPEP § 201.03, II, A, states in part,

> On very infrequent occasions, the requirements of 37 CFR 1.48(a) [*Cf.* 37 CFR 1.497(d)] have been waived upon the filing of a request and fee under 37 CFR 1.183 (along with the request and fee under 37 CFR 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. *In re Cooper*, 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. *In re Hardee*, 223 USPQ 1122, 1123 (Comm'r Pat. 1984). As 37 CFR 1.48(a) is intended as a simple procedural remedy and does not represent a substantive determination as to inventorship, issues relating to the inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in determining whether the record unequivocally supports the correction sought.

Here, the facts of record do not unequivocally support the deletion of Peter M. Thomson as an inventor. Rather, the facts of record indicate that there is a dispute as to the deletion of Peter M. Thomson as an inventor. See the letter from Mr. Thomson to Mr. Rashid (Exhibit D).

An available remedy to obtain correction of inventorship where waiver of a required statement is not available to correct the inventorship in a particular application is to refile the application naming the correct inventive entity. A request under 37 CFR 1.497(d) would not then be required in the newly filed application as no correction would be needed. Furthermore, a request under 37 CFR 1.497(d) would also not be required in the prior application that was refiled, since the prior application will be abandoned. Benefit of the parent

application's filing date would be available under 35 U.S.C. 120 provided there is at least one inventor overlap between the two applications. (Note: a sole-to-sole correction would not obtain benefit under 35 U.S.C. 120). *Cf.*, MPEP 201.03, II, A.

Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have not satisfied item (1). Nor have applicants submitted a grantable petition under 37 CFR 1.183 to waive this requirement, as set forth above.

Applicants have satisfied items (2) and (3).

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

For the above reasons, the petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

For the above reasons, the petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **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 1.183". 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
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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17 JAN 2007

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of	:	DECISION
WHITTAKER et al.	:	
Application No.: 10/503,609	:	
PCT No.: PCT/IB02/00416	:	
Int. Filing Date: 13 February 2002	:	
Priority Date: None	:	
Attorney Docket No.: (49371) 59025 US	:	
For: SPRAY NOZZLE	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed 06 December 2006.

BACKGROUND

On 13 February 2002, applicants filed international application PCT/IB02/00416, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 August 2004.

On 04 August 2004, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation of the international application, and an unexecuted declaration of inventors.

On 11 March 2005, 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 July 2006, applicants filed a submission which included, *inter alia*, a petition under 37 CFR 1.137(b) to revive the application, a petition under 37 CFR 1.497(d) to delete an inventor, and a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.497(d)(1).

On 17 August 2006, a decision was mailed dismissing without prejudice applicants'

petition under 37 CFR 1.137(b), applicants' petition under 37 CFR 1.183, and applicants' petition under 37 CFR 1.497(d). The decision indicated that an available remedy to obtain correction of inventorship where waiver of a required statement is not available to correct the inventorship in a particular application is to refile the application naming the correct inventive entity.

On 06 December 2006, applicants filed the instant petition 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), the filing of the present continuing application under 35 U.S.C. 111(a) on 12 October 2006 is accepted as an appropriate response under 37 CFR 1.137(b).

As to item (2), applicant submitted the petition fee on 06 December 2006.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) to revive international application PCT/IB02/00416 is hereby **GRANTED** as to the National stage in the United States of America for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/580,179.

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
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PCT Legal Affairs

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Legal Administration
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21 DEC 2004

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Thomas F. Roland
Atofina Chemicals, Inc.
2000 Market Street
Philadelphia, PA 19103

In re Application of
TOURNILHAC, Francoise-Genes et al.
Application No.: 10/503,610
PCT No.: PCT/FR03/00114
Int. Filing Date: 15 January 2003
Priority Date: 17 January 2002
Docket No.: FR-AM1838 NP
For: SUPRAMOLECULAR POLYMERS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 04 August 2004 is **GRANTED**.

Applicants state "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). A 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.

The declaration submitted during the international phase does not comply with 37 CFR 1.497(a)-(b). The international application lists inventor "Françoise-Genes Tournilhac" while the declaration lists "François-Genes Tournilhac." If this discrepancy is the result of a typographical error, it may be corrected with a statement under MPEP 201.03 clarifying which is the correct spelling.

This application will be held in PCT Legal Administration pending submission of a clarification of the inventor's name. 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. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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07 MAR 2005

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Thomas F. Roland
Atofina Chemicals, Inc.
2000 Market Street
Philadelphia, PA 19103

In re Application of	:	
TOURNILHAC, Francoise-Genes et al.	:	
Application No.: 10/503,610	:	DECISION
PCT No.: PCT/FR03/00114	:	
Int. Filing Date: 15 January 2003	:	ON PETITION UNDER
Priority Date: 17 January 2002	:	
Docket No.: FR-AM1838 NP	:	37 CFR 1.181
For: SUPRAMOLECULAR POLYMERS	:	

This decision is in response to "Response to Notice of Non-Compliant Declaration," filed in the above-captioned application on 17 February 2005.

Applicants indicate that the correct name of the first inventor is "François-Genes Tournilhac," and that the discrepancy is the result of a typographical error. Applicants' statement is sufficient. The declaration complies with 37 CFR 1.497(a)-(b).

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 04 August 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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STAAS & HALSEY, LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Gero Base et al.	:	
Application No. 10/503,613	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO WITHDRAW
Attorney Docket No. 071308.1175	:	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 4, 2008.

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 Mark J. Henry and all attorneys/agents associated with customer number 21171 have been revoked by the assignee of the patent application on January 20, 2009. 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: Baker Botts, L.L.P.
Patent Department
98 San Jacinto Blvd., Ste. 1500
Austin, TX 78701-4039

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/503,613	08/05/2004	Gero Base	1454.1565

CONFIRMATION NO. 8991

POWER OF ATTORNEY NOTICE

21171
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Date Mailed: 02/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/20/2009.

- 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).

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

06 JAN 2005

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United States Patent and Trademark Office
Washington, D.C. 20231
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Robert L. Haines
Sherman & Shalloway
P.O. Box 788
Alexandria, VA 22313

In re Application of	:	
ABE, et al.	:	DECISION ON PETITION
Serial No.: 10/503,617	:	
PCT No.: PCT/JP03/01730	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 18 February 2003	:	
Priority Date: 19 February 2002	:	
Atty Docket No.: ONO-105	:	
For: METHOD OF PRODUCING RIBOFLAVIN:		

This decision is in response to the petition under 37 CFR 1.47(a) filed 05 August 2004 to accept the application without the signature of joint inventor He Jung Eun.

BACKGROUND

On 18 February 2003, applicant filed international application PCT/JP03/01730 which claimed priority to a previous application filed 19 February 2002.

On 05 August 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a preliminary amendment and 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 and 3.

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." Neither the enclosed statement of Dr. Enoch Y. Park nor applicant's Exhibit A, a cover letter to the non-signing inventor indicate that in addition to a declaration, Mrs. JUNG was provided with a complete set of the application papers. In addition, applicant's Exhibit B appears

to be the receipt from when the mailing was deposited and does not appear to contain a signature from Mrs. JUNG or a relative showing that the mailing in question was actually delivered and signed for. Thus, it is unclear whether the non-signing inventor ever received a complete set of application papers.

There also appears to be some question as to whether the last known address is valid. Applicant is advised that 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." No such materials were submitted with the present petition.

Regarding item (4), the filed declaration executed by inventors ABE, NITTA and PARK is non-compliant as it does not contain the additional signature page listing inventors MING and JUNG. MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

Lastly, it is unclear that the name of the non-signing inventor is. The published international application identifies the inventor as He Jung EUN whereas the declaration lists the inventor as Eun He Jung. Applicant should provide an explanation for the discrepancy.

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
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05 JUL 2005

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Sherman & Shalloway
P.O. Box 788
Alexandria, VA 22313

In re Application of	:	
ABE, et al.	:	DECISION ON RENEWED
Serial No.: 10/503,617	:	
PCT No.: PCT/JP03/01730	:	PETITION UNDER
Int. Filing Date: 18 February 2003	:	
Priority Date: 19 February 2002	:	37 CFR 1.47(a)
Atty Docket No.: ONO-105	:	
For: METHOD OF PRODUCING RIBOFLAVIN:		

This decision is in response to applicant's "Request For Reconsideration of Petition Under 37 CFR 1.47(a)" filed 01 June 2005 to accept the application without the signature of joint inventor He Jung Eun.

BACKGROUND

On 06 January 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 01 June 2005, applicant filed the present renewed petition accompanied by a petition for a three-month extension of time and payment of the extension fee. The response is timely filed.

DISCUSSION

As detailed in the decision mailed 06 January 2005, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1 and 3.

As to item (2), applicant has presently provided sufficient evidence to show that a diligent effort has been made to locate inventor Jung to no avail.

Regarding item (4), an investigation of the application finds that the original declaration pages were separated during processing of the National stage application and complete papers were submitted at the time of filing. In addition, applicant has provided an explanation detailing

the true name of inventor Jung.

Therefore, applicant has addressed all of the issues from the decision mailed 06 January 2005 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 18 February 2002 under 35 U.S.C. 363, and will be given a date of **05 August 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
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Fax: 571-273-0459

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Eun He JUNG
c/o Shizuoka University, 836, Ohtani
Shizuoka-shi, Shizuoka-ken
JAPAN

In re Application of
ABE, et al.
Serial No.: 10/503,617
PCT No.: PCT/JP03/01730
Int. Filing Date: 18 February 2003
Priority Date: 19 February 2002
Atty Docket No.: ONO-105
For: METHOD OF PRODUCING RIBOFLAVIN

Dear Ms. JUNG:

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.

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Fax: (571) 273-0459

Robert L. Haines
Sherman & Shalloway
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United States of America

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6550 Rock Spring Drive
Suite 240
Bethesda MD 20817

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APR 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Corrado Barani	:	
Application No. 10/503,623	:	DECISION ON PETITION
Filed: February 11, 2005	:	
Attorney Docket No. 4235.412	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 12, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 13, 2009. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and amendment, (2) the petition fee of $810, 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 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

17 FEB 2005

#3

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GREGORY J. GORE
70 WEST OAKLAND AVENUE, SUITE 316
DOYLESTOWN, PA 18901

In re Application of BRUNO Application no.: 10/503,628 PCT No.: PCT/US03/02703 Int. Filing Date: 31 January 2003 Priority Date: 11 February 2002 Attorney Docket No.: 90 For: TWO-PART SNAP-TOGETHER PANEL-FASTENER	DECISION ON REQUEST FOR OF REFUND

This is a decision on applicant's "REQUEST FOR REFUND" pursuant to 37 CFR 1.26, filed in the United States Patent and Trademark Office (USPTO) on 21 December 2004, requesting refund of overpayment of basic national fee.

On 05 August 2004, applicant filed a transmittal letter to enter national stage along with the basic national fee of $730. On 21 December 2004, applicant filed a request for refund of an $630 overcharge in the $730 basic national fee paid for filing with a positive USPTO international preliminary examination report, where the basic national fee is $100.

A review of the application file reveals that on 06 December 2004, the USPTO did prepare a positive international preliminary examination report, where the claims meet PCT Article 33(1)-(4). The appropriate basic national fee in the above referenced application for filing with a positive USPTO international preliminary examination report where the claims meet PCT Article 33(1)-(4) is $100. A review of the finance records for this application reveals that applicant was charged $730 for the basic national fee, the fee for filing with a USPTO examination report where the claims do not meet PCT Article 33(1)-(4).

For the reasons above, applicants' request for refund of $630, filed 21 December 2004, is **GRANTED**. Applicant's deposit account No. 07-1733 will be refunded in the amount of $630. Applicant will be charged so that the full basic national fee of $100 (fee code 1612) will be paid.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **05 August 2004.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/503,630	**2/17/06**	**PETER BRUDER, ET AL.**	**NONE**

Title: **HOUSING WITH INTEGRATED TENSION RELIEF**

Art Unit	Paper Number

Correspondence Address:
RONALD E. GREIGG
1423 POWHATAN STREET
UNIT ONE
ALEXANDRIA, VA. 22314

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 539,846
Grant Date: 08-Feb-08

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:
for Commissioner of Patents and Trademark

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

In re:	BRUDER, ETAL.	:DECISION ON REQUEST
Petition No.:	10/503,630	:UNDER 37 CFR 5.25
Petition Filing Date:	17 February 2006	

Title: HOUSING WITH INTEGRATED TENSION RELIEF

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Germany (PCT)	17 January 2003
Germany	09 February 2002

Yvonne R. Abbott, Esq.
Licensing & Review
(571)272-6896

19 JAN 2005

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Benton S. Duffett
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In re Application of :
FRISELL, Erik :
Application No.: 10/503,631 : DECISION VACATING
PCT No.: PCT/SE03/00194 : NOTIFICATION OF MISSING
Int. Filing Date: 06 February 2003 : REQUIREMENTS
Priority Date: 08 February 2002 :
Attorney Docket No.: 003301-165 :
For: FURNITURE SYSTEM

This is a response to applicant's facsimile communication dated 13 January 2005, which has been treated as a request to vacate the Notification of Missing Requirements (PCT/DO/EO/905) mailed 05 January 2005 in view of the filing of a declaration on 26 August 2004.

On 06 February 2003, applicant filed international application PCT/SE03/00194 which claimed a priority date of 08 February 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 August 2004.

On 05 August 2004, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 05 January 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 13 January 2005, applicant filed a facsimile communication which was accompanied by a copy of the declaration filed on 26 August 2004 and a postcard receipt evidencing its receipt in the United States Patent and Trademark Office on 26 August 2004 and requests, in effect, that the copy of the declaration be accepted as a true copy of the declaration filed 26 August 2004.

Applicant has provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicant, serial number, and filing date. The receipt itemizes, among other things, a declaration. The receipt is stamped "OIPE AUG. 26, 2004" across its face is sufficient to indicate that the declaration was in fact received in the Office on 26

August 2004. Therefore, applicant's request to vacate the Notification of Missing Requirements is **GRANTED**.

In view of the declaration filed 26 August 2004, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 05 January 2005 is hereby **VACATED**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **26 August 2004**.

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In re Application of :
Carey et al. :
Application No. 10/503,642 : ON APPLICATION FOR
Filed: May 21, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 02307K-150500US:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 filed March 25, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least two hundred seventy-three (273) days, not two hundred two (202) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent. In addition, applicant disputes the reduction of 71 days associated with the filing of an Information Disclosure Statement (IDS) on November 7, 2007 as an Application Data Sheet (not an IDS) was filed on that date.

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 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent applicant otherwise requests reconsideration of the patent term adjustment, the application for patent term adjustment is **DISMISSED**.

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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.

Applicant's arguments have been considered, but not found entirely persuasive. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

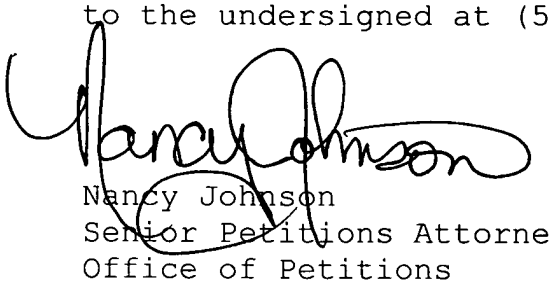
A review of the record supports a conclusion that no IDS was electronically filed on November 7, 2007. Nonetheless, after the filing of an election on August 28, 2007, there is no dispute that applicant filed an application data sheet (ADS) (and a request for refund) on November 7, 2007. Applicant has not stated, nor does the record indicate, that these papers were expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, pursuant to 37 CFR 1.704(c)(8), the period of reduction of 71 days is warranted, albeit for other papers in the form of an ADS and a request for refund submitted after a reply has been filed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains two hundred two (202) days.

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).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



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