UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

Robert A. Sabourin
Patent Department
Agfa Corporation
200 Ballardvale Street
Wilmington, MA 01069

In re Application of	:	
Chris Tuijn et al.	:	
Application No. 10/503,644	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO WITHDRAW
Attorney Docket No. GN02024	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2006.

The request is **NOT APPROVED**.

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

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

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

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

Hana Walsh for
Amelia Au
Petitions Examiner
Office of Petitions

cc: **Milde Hoffberg & Macklin, LLP**
10 Bank Street, Suite 460
White Plains, NY 10606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert A Sabourin
Patent Department
Agfa Corporation
200 Ballardvale Street
Wilmington MA 01069

COPY MAILED

APR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Chris Tuijn et al.	:	
Application No. 10/503,644	:	DECISION ON PETITION
Filed: August 5, 2004	:	TO WITHDRAW
Attorney Docket No. GN02024	:	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 6, 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, ***Agfa-Gevaert requests transfer of case***, do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee, Agfa- Gevaert, must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the

documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Milde Hoffberg Macklin LLP**
10 Bank Street, Suite 460
White Plains, NY 10606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARRINGTON & SMITH PC
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

COPY MAILED
NOV 16 2007
OFFICE OF PETITIONS

In re Application of :
Ian V. Thompson :
Application No. 10/503,661 : DECISION ON PETITION
Filed: September 7, 2004 :
Attorney Docket No. :
854.0039.U1(US)

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2007 (certificate of mailing date of January 8, 2007), to revive the above-identified application. For the reasons stated below, the petition is being treated as a petition under 37 CFR 1.181(a) (no fee) requesting withdrawal of the holding of abandonment.

The petition treated under 37 CFR 1.181(a) is **GRANTED.**

The Notice of Abandonment mailed December 20, 2006 stated that this application became abandoned for failure to timely reply to the Office action dated June 13, 2006.

A review of the Image File Wrapper for this application does not show the mailing of an Office action dated June 13, 2006, although Office PALM Intranet records do indicate that such an Office action was mailed. Thereafter, Office PALM Intranet records indicate that a miscellaneous communication was mailed on July 5, 2006 and another one on July 11, 2006. In reviewing the Office action of July 11, 2006, it appears that, because an initialed IDS was not sent with the last Office action, the Office action was re-mailed and the period for reply reset with the re-mailing thereof. Therefore, this application did not become abandoned for failure to timely reply to an Office action shown in Office PALM Intranet records, but not in the Image File Wrapper, to have been mailed on June 13, 2006.

In view of the above, the Notice of Abandonment mailed December 20, 2006 is hereby **vacated** and the holding of abandonment is **withdrawn**.

The petition to revive states that, if it is found that the second action superceded the first action mailed on June 13, 2006, the petition fee should be refunded, minus the fee required for a three month extension of time. Accordingly, as requested, $1,050 of the $1,500 petition fee submitted will be applied towards the three month extension of time due for timely replying to the Office action of July 11, 2007. The balance of $450 will be refunded to petitioner's deposit account.

It is noted that, while the reply itself does not bear a certificate of mailing, the petition to revive does bear a certificate of mailing dated January 8, 2007, which references the filing of the response. Therefore, the reply, along with the three month extension of time fee, is deemed to be a timely reply to the July 11, 2006 Office action.

To complete the record for this file, petitioner has supplied a copy of the June 13, 2006 Office action, which will be scanned into the Image File Wrapper for this case.

This application is being referred to Technology Center AU for appropriate action in the normal course of business on the reply received January 12, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/26/2010

Applicant	: Johannes Gerardus Tiedink	: DECISION ON REQUEST FOR
Patent Number	: 7662748	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/503,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1071** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
AUG 0 8 2006
OFFICE OF PETITIONS

Townsend And Townsend And Crew
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
BAYS et al.	:	
Application No. 10/503,692	:	DECISION ON PETITION
Filed: August 4, 2004	:	TO WITHDRAW
Attorney Docket No. 016002-002410US	:	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 9, 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, terminating client relationship, 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Rita Charles, Eaq.
PHARMACYCLICS, INC.
999 E. Arques Avenue
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

COPY MAILED

MAY 16 2007

OFFICE OF PETITIONS

In re Application of :
Toshiki Taguchi, et al. :
Application No.: 10/503,710 :
Filed: August 6, 2004 :
Attorney Docket No.: Q82954 :

ON PETITION

This is a decision on the petition, filed May 14, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 19, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2853 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of :
Kakuta, et al. :
Application No. 10/503,720 :
Filed: April 27, 2005 :
Attorney Docket No. Kakuta=3 :
For: ANTIBODY-CONTAINING
SOLUTION PHARMACEUTICALS

ON PETITION

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

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the final Office action, mailed July 18, 2006, which set an extendable period for reply of three (3) months. Having received no extensions of time or reply, the Office considered the application abandoned on October 19, 2006. A Notice of Abandonment was mailed on March 12, 2007.

A review of the application file reveals that the July 18, 2006 final Office action was returned to the Office on July 21, 2006 with a Finnegan, Henderson, Farabow, Garrett & Dunner, LLP receipt stamp affixed thereto. It is apparent that the July 18, 2006 final Office action was delivered to the wrong address.

Therefore, the petition under 37 CFR 1.181 is granted, the holding of abandonment is withdrawn, and the March 12, 2007 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to Technology Center G.A.U. 1644 for the re-mailing of the July 18, 2006 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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Covidien
60 Middletown Avenue
North Haven, CT 06473

Mail Date: 04/21/2010

Applicant	: Russell Heinrich	: DECISION ON REQUEST FOR
Patent Number	: 7648515	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/503,743	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **338** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

06 DEC 2006

RENNER, KENNER, GRIEVE, BOBACK, TAYLOR & WEBER
Fourth Floor, First National Tower
Akron, OH 44309-1456

In re Application of
PEPPER, Stewart
U.S. Application No.: 10/503,745
PCT No.: PCT/GB2003/000502
Int. Filing Date: 06 February 2003
Priority Date: 06 February 2002
Attorney Docket No.: NCP.P0001
For: METHOD AND APPARATUS FOR MONITORING FIRE DETECTORS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 21 August 2006. No fee is required.

BACKGROUND

On 10 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 that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. A two-month time limit in which to respond was set with extensions of time available.

On 08 August 2006, the DO/EO/US mailed a Notice of Abandonment for failing to reply to the Form PCT/DO/EO/905 mailed 10 March 2005.

On 23 December 2005, applicant filed a petition to withdraw the holding of abandonment along with a copy of the file jacket for the above-identified application and a copy of a printout of the computer docket record for the subject application.

DISCUSSION

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the petition, counsel has satisfied items (1) and (2) above.

With regards to item (3), petitioner submitted a copy of a computer docket sheet containing information on Docket Number NCP.P0001. This docket record indicates that the Form PCT/DO/EO/905 mailed 10 March 2005 was not received and processed. But this evidence is not sufficient to meet item (3). Section 711.03(c) of the MPEP discusses the docket record requirement and states, in part:

> A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. **For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.** (Emphasis added).

A single document containing only docket information on the U.S. application in question shows no other corroborating information to add weight and credibility to the information contained therein and can be too easily manipulated. In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, applicant must provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 10 May 2005). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. The docket report showing only the subject application does not satisfy this requirement.

Therefore, applicant has not met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The subject application remains **ABANDONED**.

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 under 37 CFR 1.136(a) are authorized.

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

the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

19 DEC 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

RENNER, KENNER, GRIEVE, BOBACK, TAYLOR & WEBER
Fourth Floor, First National Tower
Akron, OH 44308-1456

In re Application of PEPPER, Stewart U.S. Application No.: 10/503,745 PCT No.: PCT/GB2003/000502 Int. Filing Date: 06 February 2003 Priority Date: 06 February 2002 Attorney Docket No.: NCP.P0001 For: METHOD AND APPARATUS FOR MONITORING FIRE DETECTORS	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 21 August 2006. No fee is required.

BACKGROUND

On 10 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 that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. A two-month time limit in which to respond was set with extensions of time available.

On 08 August 2006, the DO/EO/US mailed a Notice of Abandonment for failing to reply to the Form PCT/DO/EO/905 mailed 10 March 2005.

On 23 December 2005, applicant filed a petition to withdraw the holding of abandonment along with a copy of the file jacket for the above-identified application and a copy of a printout of the computer docket record for the subject application.

DISCUSSION

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the petition, counsel has satisfied items (1) and (2) above.

With regards to item (3), petitioner submitted a copy of a computer docket sheet containing information on Docket Number NCP.P0001. This docket record indicates that the Form PCT/DO/EO/905 mailed 10 March 2005 was not received and processed. But this evidence is not sufficient to meet item (3). Section 711.03(c) of the MPEP discusses the docket record requirement and states, in part:

> A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. **For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.** (Emphasis added).

A single document containing only docket information on the U.S. application in question shows no other corroborating information to add weight and credibility to the information contained therein and can be too easily manipulated. In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, applicant must provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 10 May 2005). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. The docket report showing only the subject application does not satisfy this requirement.

Therefore, applicant has not met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The subject application remains **ABANDONED**.

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 under 37 CFR 1.136(a) are authorized.

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

the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

2 0 MAR 2007

RENNER, KENNER, GRIEVE, BOBACK, TAYLOR & WEBER
Fourth Floor, First National Tower
Akron, OH 44308-1456

In re Application of	:	
PEPPER, Stewart	:	
U.S. Application No.: 10/503,745	:	
PCT No.: PCT/GB2003/000502	:	**DECISION ON**
Int. Filing Date: 06 February 2003	:	
Priority Date: 06 February 2002	:	**RENEWED PETITION**
Attorney Docket No.: NCP.P0001	:	
For: METHOD AND APPARATUS FOR	:	
MONITORING FIRE DETECTORS	:	

This decision is in response to applicant's "Request for Reconsideration of Decision on Petition to Withdraw the Holding of Abandonment" filed 19 January 2007.

BACKGROUND

On 06 December 2006, a decision dismissing applicant's petition to with draw holding of abandonment was mailed. Applicants were given two months to respond.

On 19 January 2007, applicant filed the subject request for reconsideration which was accompanied by, *inter alia*, a "Declaration of Edward G. Greive"; a copy of the law firm's calendar for May 2005; and a copy of the hand-written docket record for the subject application.

DISCUSSION

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

Applicant previously submitted a copy of a computer docket sheet containing information on Docket Number NCP.P0001. This docket record indicates that the Form PCT/DO/EO/905 mailed 10 March 2005 was not received and processed. However, the prior decision noted that applicant must also provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements

was due (*i.e.*, 10 May 2005).

In the renewed petition, applicant submitted a declaration by Mr. Grieve, a copy of the law firm's calendar for May 2005 and a copy of the hand-written docket record for the subject application. Mr. Grieve noted that the evidence provided "are the only records maintained by my office for this application." A review of this evidence shows that the Form PCT/DO/EO/905 was not received. This is sufficient to meet the docket record requirement noted in item (3) above.

Applicant has now met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

In view of the above, the renewed petition to withdraw the holding of abandonment is **GRANTED**.

The Notice of Abandonment mailed 08 August 2006 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a new 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 a declaration and surcharge fee is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH D. MOSIA
4201 BLUE BARROW ROAD
ELLICOTT CITY, MD 21042

COPY MAILED

APR 16 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joseph D. Mosca :
Application No. 10/503,755 :
Filed: January 28, 2005 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed December 1, 2005, 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 above-identified application became abandoned on January 2, 2006.

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

This matter is being referred to Technology Center AU 1632 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENTIQUE PLLC
P.O. BOX 5803
BELLEVUE, WA 98006

COPY MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph D. MOSCA	:	
Application No. 10/503,755	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 18, 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 January 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 1632 for appropriate action by the Examiner in the normal course of business on the reply received June 22, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/16/2009

TO SPE OF : ART UNIT 3745 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/503,760 Patent No.: 7,162,945

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LTE
Randolph Sq. S t9D62A
703-756 -1590

Thank You For Your Assistance

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

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

Comments: _____

SPE Edward Tso **ART UNIT** 3745

01 FEB 2005

45

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Timothy M. Speer
FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly, Virginia 20153-1200

In re Application of	:
WOOLVERTON, Christopher J.	: DECISION ON
US Application No.: 10/503,765	:
PCT Application No.: PCT/US02/38739	: PETITION UNDER
Int. Filing Date: 04 December 2002	:
Priority Date: 04 December 2001	: 37 CFR 1.137 (b)
Attorney's File Reference: EHV-0003	:
For: STORAGE-STABLE FIBRIN SEALANT	:

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 06 August 2004 is **GRANTED**.

BACKGROUND

On 04 December 2002, applicant filed international application PCT/US02/38739. The international application claims a priority date of 04 December 2001 and designates the United States. The deadline for payment of the basic national fee in the United States National Stage was thirty months from the priority date, that is 04 June 2004. The application became abandoned as of midnight on 04 June 2004 for failure to pay the basic national fee.

On 06 August 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 a Preliminary Amendment), an executed declaration, and the small entity 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) 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 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 04 December 2002 under 35 U.S.C. 363 and a date of 06 August 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Ula Ruddock
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
AUG 22 2006
OFFICE OF PETITIONS

FLESHNER & KIM LLP
P.O. Box 221200
Chantilly, VA 20153

In re Application of	:	
Chistopher J. WOOLVERTON	:	
Application No. 10/503,765	:	DECISION ON PETITION
Filed: August 6, 2004	:	TO WITHDRAW
Attorney Docket No. EHV-0003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 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 Donald R. McPhail on behalf of all attorneys of record who are associated with customer No. 34610.

All attorneys/agents associated with the Customer Number 34610 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 Monica A. Graves at 571-272-7253.

David Bucel
Petitions Examiner
Office of Petitions

cc: Christopher Woolverton
1203 Windward Lane
Kent, Ohio 44242-0001

cc: StatSeal Inc.
5150 Village Park Drive, SE
Suite 110
Bellevue, WA 98006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/503,765	08/06/2004	Christopher J. Woolverton	EHV-0003

CONFIRMATION NO. 4833

OC000000019955507

34610
FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153

Date Mailed: 08/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

13 NOV 2006

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO, TX 75024

In re Application of BLOECHER et al	:	
U.S. Application No.: 10/503,778	:	
PCT Application No.: PCT/EP02/01231	:	
Int. Filing Date: 06 February 2002	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: P16452-US1	:	
For: DISTRIBUTED TELEPHONE	:	
CONFERENCE WITH SPEECH CODERS	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181" filed 08 September 2006.

BACKGROUND

On 06 February 2002, applicant filed international application PCT/EP02/01231. 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 06 August 2004.

On 06 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 10 March 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 02 May 2005, applicant purportedly filed an executed declaration via facsimile.

On 09 August 2006, 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 08 September 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

37 CFR 1.8(b) states:

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

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence and certificate.

With regard to item (3) above, the statement contained in the petition is not from the person whose name appears on the certificate of transmission.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

24 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO, TX 75024

In re Application of BLOECHER et al	:	
U.S. Application No.: 10/503,778	:	
PCT Application No.: PCT/EP02/01231	:	
Int. Filing Date: 06 February 2002	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: P16452-US1	:	
For: DISTRIBUTED TELEPHONE	:	
CONFERENCE WITH SPEECH CODERS	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.181" filed 15 January 2007.

BACKGROUND

On 06 February 2002, applicant filed international application PCT/EP02/01231. 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 06 August 2004.

On 06 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 10 March 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 02 May 2005, applicant filed an executed declaration via facsimile.

On 09 August 2006, 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 08 September 2006, applicant filed a petition under 37 CFR 1.181.

On 13 November 2006, this Office mailed a decision dismissing the 08 September 2006 petition.

On 15 January 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The declaration filed 02 May 2005 has been located and placed in the application file.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is DISMISSED AS MOOT.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 August 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 06 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 02 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 Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

10 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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

Herbert Dubno
THE FIRM OF KARL F. ROSS P.C.
5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900

In re Application of	:
GOTTWALD, Gerd	: DECISION ON
US Application No.: 10/503,783	:
PCT Application No.: PCT/EP02/13444	:
Int. Filing Date: 28 November 2002	: PETITION UNDER
Priority Date: 28 November 2001	:
Attorney's File Reference: 22969	:
For: PLUG	: 37 CFR 1.137 (b)

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 26 July 2004 is **GRANTED**.

BACKGROUND

On 28 November 2002, applicant filed international application PCT/EP02/13444. The international application claims a priority date of 28 November 2001 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 28 May 2004. The application became abandoned as of midnight on 28 May 2004 for failure to pay the basic national fee.

On 26 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, Preliminary Amendment, and Translation), 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 this petition and application from the due date for the application under the filing of a grantable petition pursuant to 37 CFR 1.137 (b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

Applicant has satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 28 November 2002 under 35 U.S.C. 363 and a date of 26 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: 571-272-3279

Richard Cole
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: David A Greenberg	: DECISION ON REQUEST FOR
Patent Number	: 7605128	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/503,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1017** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
NOV 21 2006
OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

In re Application of	:	
DIJKSTRA, et al.	:	
Application No. 10/503,796	:	DECISION ON PETITION
Filed: August 06, 2004	:	TO WITHDRAW
Attorney Docket No. 30152-75653	:	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 16, 2006.

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

A review of the file record indicates that the power of attorney to BARNES & THORNBURG LLP has been revoked by the assignee of the patent application on September 29, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Volpe

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

cc: DarPharma, Inc.
C/O BioValve Technologies, Inc.
Attention : Robert Gonnelli
155 Flanders Road
Westborough, MA 01581

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/503,796	08/06/2004	Durk Dijkstra	30152-75653

CONFIRMATION NO. 3787

OC000000021300523

23643
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Date Mailed: 11/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
SEP 25 2008

In re Patent No. 7,337,775 :

Issue Date: March 4, 2008 :

Application No. 10/503,799 : ON PETITION

Filed: August 6, 2004 :

Attorney Docket No. **1455-044806**

This is a decision on the renewed petition under 37 CFR 1.83 to waive the requirements of 37 CFR 3.81 filed May 21, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Huntley & Associates
1105 North Market Street
P.O. Box 948
Wilmington, DE 19899-0948

In re Application of	:	
Yuzo Mifune et al.	:	
Application No. 10/503,800	:	DECISION ON PETITION
Filed: April 13, 2005	:	TO WITHDRAW
Attorney Docket No. Midori-2	:	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 27, 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 matters pending before the Office unless such request or such withdrawal is" for one of the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request do 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 Charles Smoot at 571-272-3299.

Karen Creedy for

David Bucci
Petitions Examiner
Office of Petition

Cc: GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON DE 19806

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
MAR 15 2010

In re Patent No. 7,588,030	:
Ede et al.	: DECISION ON REQUEST FOR
Issue Date: September 15, 2009	: RECONSIDERATION OF
Application No. 10/503,818	: PATENT TERM ADJUSTMENT
Filed: August 6, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 064886-0104	: TO ISSUE CERTIFICATE OF
Title: MEDICAMENT CONTAINER AND	: CORRECTION
METHOD OF MANUFACTURE THEREOF	:

This is a decision on the petition filed on November 5, 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 forty (1440) 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 forty (1440) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand four hundred forty (1440) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

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

/Kery Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,588,030 B2

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

INVENTOR(S) : Ede 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 1209 days

Delete the phrase "by 1209 days" and insert – by 1440 days--

07 SEP 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

MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004

In re Application of: BRUCE, et al	:	
Application No.: 10/503,819	:	
PCT Application No.: PCT/GB03/00553	:	DECISION ON
Int. Filing Date: 08 February 2003	:	PETITION UNDER
Priority Date Claimed: 08 February 2002	:	37 CFR 1.137(b)
Attorney Docket No.: MARKS-5001	:	AND 37 CFR 1.47(a)
For: Test Equipment and Portable Test Device	:	
	:	
	:	

This decision is a response to Applicants' filing on 14 April 2006 in the United States Patent and Trademark Office (USPTO). This filing includes a petition under 37 CFR 1.137(b) for revival of the instant application and a petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Stephen Ferrier.

BACKGROUND

On 08 February 2003, Applicants filed international application PCT/GB03/00553. The international application claims a priority date of 08 February 2002 and designates the United States. Pursuant to 35 U.S.C. 371 and 37 CFR 1.495, the thirty-month period for commencement of the national stage in the United States, and paying the required basic national fee, expired at midnight on 09 August 2004.

On 6 August 2004, Applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a copy of the international application; a copy of the international search report; a copy of the international preliminary examination report; preliminary amendments to the specification and claims; an information disclosure statement; and the requisite basic

national fee as required by 35 U.S.C. 371 (c)(1). An executed oath or declaration of the inventors as required by 35 U.S.C. 371 (c)(4) was not filed.

On 12 July 2005, Applicants were mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) advising Applicants of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicants were afforded two months to file the proper reply and advised that this time could be extended with a petition and payment of the appropriate extension of time fee.

On 14 April 2006, Applicants filed the instant response including the petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a), both of which are considered herein.

DISCUSSION

I. Petition Pursuant to 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $200 fee under 37 CFR 1.17(g), (2) factual proof that the non-signing inventor(s) refuses to execute the application or cannot be reaches 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 the behalf of the non-signing joint inventor(s). Requirements (1), and (3)-(4) of 37 CFR 1.47(a) have been satisfied.

Regarding requirement (1), Applicants have authorized that Deposit Account No. 19-4880 be charged the amount of $130. However, the complete petition fee due is $200 under 37 CFR 1.17(g). Therefore, since Applicants have authorized the USPTO to charge all required fees, except for the Issue Fee and Publication Fee, the balance due of $70 will be also be deducted from Applicant's Deposit Account.

Regarding requirement (2), the declaration of Lorna Clark states that a copy of the application papers were mailed to the non-signing inventor, Mr. Stephen Ferrier, on 3 February 2006, but it is not clear what papers were actually received by Mr. Ferrier, and whether those mailed papers included a copy of all of the national stage application papers (specification, including claims and drawings, and oath or declaration). What is required is evidence that Mr. Ferrier was presented with a copy of *all* national stage papers for this application. Further, Ms. Clark's declaration states that Mr. Ferrier's lawyers acknowledged that Mr. Ferrier had forwarded to them the "letter" sent to him on 3 February 2006, but it is not clear what "letter" is being referred to, as Ms. Clark declared that application papers were sent to Mr. Ferrier, not merely a "letter". Also, it is not clear that Mr. Ferrier understood exactly what was being asked of him, and/or

that he refused to accept the application papers. Accordingly, it is unclear what was said in the application papers, what was provided Mr. Ferrier in said papers, and, further, the circumstances of the refusal of Mr. Ferrier to sign has not been clearly elaborated.

Regarding requirement (3), Applicants have provided a statement of the last known address of the missing inventor, Mr. Stephen Ferrier.

Regarding requirement (4), Applicants have provided an executed declaration that complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

Consequently, the current record does not sufficiently establish Mr. Stephen Ferrier's refusal to join in the application and, for the reasons stated above, it is not possible to grant applicant's petition pursuant to 37 CFR 1.47(a) at this time.

II. Petition Under 37 CFR 1.137(b)

A petition pursuant to 37 CFR requesting that the application be revived on the ground 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 form 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) (if the application was filed prior to June 8, 1995). Applicant has satisfied requirements (2)-(4).

Regarding requirement (1), the proper response was the submission of an executed oath or declaration of the inventors which complies with 37 CFR 1.497 (a) and (b) or a grantable petition under 37 CFR 1.47. As discussed above, Applicants have not submitted a compliant declaration or grantable petition under 37 CFR 1.47(a).

For the reason stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

The petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a) are **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b) and Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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 Office of PCT Legal Administration.

Dionne W. Mayes
PCT Legal Administration Detailee
Telephone: 571-272-6094
Administration
Facsimile: 571-273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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

17 NOV 2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
BRUCE et al.	:	
Application No.: 10/503,819	:	
PCT No.: PCT/GB2003/000553	:	SUPPLEMENTAL
Int. Filing Date: 08 February 2003	:	
Priority Date: 08 February 2002	:	DECISION
Attorney's Docket No.: MARKS-5001	:	
For: TEST EQUIPMENT AND PORTABLE	:	
TEST DEVICE	:	

A decision was mailed 07 September 2006 on applicants' petition filed 14 April 2006. However, the decision was sent to the previous address of record rather than the proper address. The decision is being re-mailed herewith by enclosing a copy of the original decision with this Supplemental Decision. The time limit set forth in the enclosed decision runs from the mailing date of this Supplemental Decision rather than the mailing date of the original decision.

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

Enc.: copy of decision mailed 07 September 2006

07 SEP 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

MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004

In re Application of: BRUCE, et al Application No.: 10/503,819 PCT Application No.: PCT/GB03/00553 Int. Filing Date: 08 February 2003 Priority Date Claimed: 08 February 2002 Attorney Docket No.: MARKS-5001 For: Test Equipment and Portable Test Device	DECISION ON PETITION UNDER 37 CFR 1.137(b) AND 37 CFR 1.47(a)

This decision is a response to Applicants' filing on 14 April 2006 in the United States Patent and Trademark Office (USPTO). This filing includes a petition under 37 CFR 1.137(b) for revival of the instant application and a petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Stephen Ferrier.

BACKGROUND

On 08 February 2003, Applicants filed international application PCT/GB03/00553. The international application claims a priority date of 08 February 2002 and designates the United States. Pursuant to 35 U.S.C. 371 and 37 CFR 1.495, the thirty-month period for commencement of the national stage in the United States, and paying the required basic national fee, expired at midnight on 09 August 2004.

On 6 August 2004, Applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a copy of the international application; a copy of the international search report; a copy of the international preliminary examination report; preliminary amendments to the specification and claims; an information disclosure statement; and the requisite basic

national fee as required by 35 U.S.C. 371 (c)(1). An executed oath or declaration of the inventors as required by 35 U.S.C. 371 (c)(4) was not filed.

On 12 July 2005, Applicants were mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) advising Applicants of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicants were afforded two months to file the proper reply and advised that this time could be extended with a petition and payment of the appropriate extension of time fee.

On 14 April 2006, Applicants filed the instant response including the petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a), both of which are considered herein.

DISCUSSION

I. Petition Pursuant to 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $200 fee under 37 CFR 1.17(g), (2) factual proof that the non-signing inventor(s) refuses to execute the application or cannot be reaches 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 the behalf of the non-signing joint inventor(s). Requirements (1), and (3)-(4) of 37 CFR 1.47(a) have been satisfied.

Regarding requirement (1), Applicants have authorized that Deposit Account No. 19-4880 be charged the amount of $130. However, the complete petition fee due is $200 under 37 CFR 1.17(g). Therefore, since Applicants have authorized the USPTO to charge all required fees, except for the Issue Fee and Publication Fee, the balance due of $70 will be also be deducted from Applicant's Deposit Account.

Regarding requirement (2), the declaration of Lorna Clark states that a copy of the application papers were mailed to the non-signing inventor, Mr. Stephen Ferrier, on 3 February 2006, but it is not clear what papers were actually received by Mr. Ferrier, and whether those mailed papers included a copy of all of the national stage application papers (specification, including claims and drawings, and oath or declaration). What is required is evidence that Mr. Ferrier was presented with a copy of *all* national stage papers for this application. Further, Ms. Clark's declaration states that Mr. Ferrier's lawyers acknowledged that Mr. Ferrier had forwarded to them the "letter" sent to him on 3 February 2006, but it is not clear what "letter" is being referred to, as Ms. Clark declared that application papers were sent to Mr. Ferrier, not merely a "letter". Also, it is not clear that Mr. Ferrier understood exactly what was being asked of him, and/or

that he refused to accept the application papers. Accordingly, it is unclear what was said in the application papers, what was provided Mr. Ferrier in said papers, and, further, the circumstances of the refusal of Mr. Ferrier to sign has not been clearly elaborated.

Regarding requirement (3), Applicants have provided a statement of the last known address of the missing inventor, Mr. Stephen Ferrier.

Regarding requirement (4), Applicants have provided an executed declaration that complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

Consequently, the current record does not sufficiently establish Mr. Stephen Ferrier's refusal to join in the application and, for the reasons stated above, it is not possible to grant applicant's petition pursuant to 37 CFR 1.47(a) at this time.

II. Petition Under 37 CFR 1.137(b)

A petition pursuant to 37 CFR requesting that the application be revived on the ground 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 form 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) (if the application was filed prior to June 8, 1995). Applicant has satisfied requirements (2)-(4).

Regarding requirement (1), the proper response was the submission of an executed oath or declaration of the inventors which complies with 37 CFR 1.497 (a) and (b) or a grantable petition under 37 CFR 1.47. As discussed above, Applicants have not submitted a compliant declaration or grantable petition under 37 CFR 1.47(a).

For the reason stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

The petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a) are **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b) and Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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 Office of PCT Legal Administration.

Dionne W. Mayes
PCT Legal Administration Detailee
Telephone: 571-272-6094
Administration
Facsimile: 571-273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal

2 6 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
BRUCE et al.	:	
Application No.: 10/503,819	:	
PCT No.: PCT/GB2003/000553	:	DECISION
Int. Filing Date: 08 February 2003	:	
Priority Date: 08 February 2002	:	
Attorney's Docket No.: MARKS-5001	:	
For: TEST EQUIPMENT AND PORTABLE	:	
TEST DEVICE	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) and renewed petition under 37 CFR 1.137(b) both filed 14 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 February 2003, applicants filed international application PCT/GB2003/000553, which designated the United States and claimed a priority date of 08 February 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 14 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 August 2004 (08 August 2004 being a Sunday).

On 06 August 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 12 July 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(h) were required. The Notification set a two-month extendable period for reply.

On 12 April 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 12 July 2005.

On 14 April 2006, applicants filed a petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.137(b).

On 17 November 2006, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.47(a) and 37 CFR 1.137(b). Specifically, as to the petition under 37 CFR 1.47(a), applicants had not provided factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort. As to the petition under 37 CFR 1.137(b), applicants had not provided the proper response, namely, an oath or declaration in compliance with 37 CFR 1.497(a)-(b) or a grantable petition under 37 CFR 1.47(a).

On 14 February 2007, applicants filed the instant renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.137(b). The petition under 37 CFR 1.47(a) was accompanied by, *inter alia*, a petition/fee for a one-month extension of time, a declaration of facts by Michael Lord, and copies of correspondence between Mr. Lord and Anderson, Beaton, Lamond–the attorneys for nonsigning inventor Stephen Ferrier.

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.

As noted in the decision mailed 17 November 2006, items (1), (3), and (4) have been met. (As to item (1), contrary to the decision mailed 17 November 2006, Deposit Account 19-4880 has been charged $200 rather than $70; the $130 paid with the 14 April 2006 submission was for the surcharge under 37 CFR 1.492(h).)

Item (2) has now been met as well. The declaration of inventors filed 14 April 2006 is in compliance with 37 CFR 1.497(a)-(b).

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), applicant has submitted a grantable petition under 37 CFR 1.47(a).

As to item (2), applicant has submitted the petition fee.

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

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 **14 April 2006**.

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

2 6 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen Ferrier
Department of Restorative Dentistry
School of Dentistry
University of Leeds
Clarendon Way
Leeds
LS2 9LU
UK

In re Application of
BRUCE et al.
Application No.: 10/503,819
PCT No.: PCT/GB2003/000553
Int. Filing Date: 08 February 2003
Priority Date: 08 February 2002
Attorney's Docket No.: MARKS-5001
For: TEST EQUIPMENT AND PORTABLE TEST DEVICE

Dear Mr. Ferrier:

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

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

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

2 6 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen Ferrier
c/o Anderson Beaton Lamond
Bordeaux House
31 Kinnoull Street
Perth
PH1 5EN
Scotland

In re Application of
BRUCE et al.
Application No.: 10/503,819
PCT No.: PCT/GB2003/000553
Int. Filing Date: 08 February 2003
Priority Date: 08 February 2002
Attorney's Docket No.: MARKS-5001
For: TEST EQUIPMENT AND PORTABLE TEST DEVICE

Dear Mr. Ferrier:

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

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

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

05 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURNS DOANE SWECKER & MATHIS LLP
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
FRISELL, Erik	:	
Application No.: 10/503,820	:	DECISION ON
PCT No.: PCT/SE03/00193	:	
Int. Filing Date: 06 February 2003	:	PETITION
Priority Date: 08 February 2002	:	
Attorney Docket No.: 003301-166	:	UNDER 37 CFR 1.181
For: COLUMN	:	

This decision is in response to applicant's "Resubmission of Signed Declaration," filed on 22 February 2005. It has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 06 February 2003, applicant filed international application PCT/SE03/00193, claiming a priority date of 08 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 August 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 08 August 2004.

On 06 August 2004, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 26 August 2004, the Office received, *inter alia*, the fee for late filing of the oath or declaration.

On 08 February 2005, the Office mailed Notification of Missing Requirements, indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 22 February 2005, applicant submitted a letter, accompanied by a postcard receipt, an executed declaration and a statement that the declaration was a copy of a declaration filed on 26 August 2004.

On 10 March 2005, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of 22 February 2005.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by application number, stamped 26 August 2004 and listing a declaration. This is adequate evidence that the listed item was received by the Office on 26 August 2004. Applicant indicates that the enclosed declaration is a true copy of the 26 August 2004 submission and the statement is signed by someone registered to practice before the Office. The declaration is accepted as having been received on 26 August 2004.

The declaration submitted on 26 August 2004 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 08 February 2005 is **VACATED**.

The Notice of Acceptance (Form PCT/DO/EO/903) mailed 10 March 2005 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 26 August 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

12 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul H. Johnson
Gabel & Gotwals
100 West Fifth Street
Suite 1100
Tulsa, Oklahoma

In re Application of	:	
EARLY et al.	:	
Application No.: 10/503,822	:	DECISION ON PETITION
PCT No.: PCT/IE03/00019	:	UNDER 37 CFR 1.47(a)
Int. Filing: 10 February 2003	:	
Priority Date: 08 February 2002	:	
Attorney Docket No.: 42603-0300	:	
For: AN APPARATUS FOR PIPELINE ISOLATION	:	

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 16 June 2005 to accept the application without the signatures of joint inventors, Ciaran Early, Douglas McTavish, and James Early. The $200 petition fee has been received.

BACKGROUND

On 10 February 2003, applicants filed international application PCT/IE03/00019, which claimed a priority date of 08 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. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 08 August 2004.

On 05 August 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; and a preliminary amendment.

On 16 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 16 June 2005, applicants filed a petition under 37 CFR 1.47(a).

On 06 July 2005, applicants filed "Supplemental Petition under 37 CFR 1.47."

DISCUSSION

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

A review of the present petition reveals 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 Ciaran Early, Douglas McTavish, and James Early. The steps taken by Michael E. Sellers are sufficient to show that Ciaran Early, Douglas McTavish, and James Early have refused to execute the application.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application has an international filing date of 10 February 2003 under 35 U.S.C. 363 and a date of **16 June 2005** 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 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
Fax: 571-273-0459

12 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James Early
29 Moeran Road
Walkinstown
Dublin
12 W Ireland, Republic of

In re Application of
EARLY et al.
Application No.: 10/503,822
PCT No.: PCT/IE03/00019
Int. Filing: 10 February 2003
Priority Date: 08 February 2002
Attorney Docket No.: 42603-0300
For: AN APPARATUS FOR PIPELINE ISOLATION

Dear James Early:

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

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

Anthony Smith

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

Counsel of Record:
Paul H. Johnson
Gable & Gotwals
100 West Fifth Street
Suite 1100
Tulsa, Oklahoma 74103-4217

12 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ciaran Early
30 Rushbrook Avenue
Templeogue
Dublin
6 W Ireland, Republic of

In re Application of
EARLY et al.
Application No.: 10/503,822
PCT No.: PCT/IE03/00019
Int. Filing: 10 February 2003
Priority Date: 08 February 2002
Attorney Docket No.: 42603-0300
For: AN APPARATUS FOR PIPELINE ISOLATION

Dear Ciaran Early:

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

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

Anthony Smith

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

Counsel of Record:
Paul H. Johnson
Gable & Gotwals
100 West Fifth Street
Suite 1100
Tulsa, Oklahoma 74103-4217

12 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Douglas MacTavish
Verven 4
N-4004
Savanger
Norway

In re Application of
EARLY et al.
Application No.: 10/503,822
PCT No.: PCT/IE03/00019
Int. Filing: 10 February 2003
Priority Date: 08 February 2002
Attorney Docket No.: 42603-0300
For: AN APPARATUS FOR PIPELINE ISOLATION

Dear Douglas MacTavish:

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

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

Anthony Smith

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

Counsel of Record:
Paul H. Johnson
Gable & Gotwals
100 West Fifth Street
Suite 1100
Tulsa, Oklahoma 74103-4217

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED
JUN 20 2008

In re Application of	:
Shastri, et al.	: DECISION ON PETITION
Application No. 10/503,826	:
Filed: August 18, 2005	:
Docket No.: MIN-P01-041	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 19, 2008.

The Notice of Abandonment mailed May 12, 2008 indicated that the instant application was abandoned for failure to timely submit a proper reply to the non-final Office action mailed October 3, 2007.

Petitioners assert that a response to the non-final Office action, including petition for three month extension of time, was timely April 3, 2008.

The original response submitted April 3, 2008 has been located in the application file.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 1600 further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON WI 54016

MAILED

APR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
HUOTARI et al.	:	
Application No. 10/503,841	:	DECISION ON PETITION
Filed: 08/06/2004	:	
Attorney Docket No. PAT146USA	:	

This is a decision on the petitions filed May 19, 2008, and March 29, 2010, which are properly treated a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. The petitions were recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed on October 9, 2007, which set a three-month shortened statutory period for reply. Extensions of this period were available under 37 CFR 1.136(a). On May 1, 2008, the Office mailed a Notice of Abandonment.

Petitioner stated that petitioner filed a timely reply to the non-final Office action, accompanied by an authorization to charge the Deposit Account for any extensions of time fee. Petitioner submitted a copy of the reply, bearing a certificate of mailing dated April 9, 2008. The reply was located among the papers in the Image File Wrapper for the above-identified application. Additionally, the Office finance records reveals that the USPTO charged $525.00 to petitioner's Deposit Account for an extension of time for response within the third month.

In view of the above, the reply is considered timely filed on April 9, 2008, with the request for an extension of time for response within the third month (and fee). See 37 CFR 1.8(a) and 1.136(a).

Accordingly, the petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that petitioner filed a timely response to the non-final Office action.

This matter is being referred to Technology Center Art Unit 3682 for further action on the reply filed on April 9, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Wixforth	:	
Application No. 10/503,856	:	ON PETITION
Filed: August 6, 2004	:	
Attorney Docket No. 3067	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 2, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 3, 2006.

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

This matter is being referred to Technology Center AU 3662 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

United States Patent and Trademark Office

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

07 AUG 2007

University of Medicine and Dentistry of New Jersey
Office of Patents and Licensing
335 George Street
Suite 3200
New Brunswick, NJ 08901

In re Application of	:	
Kotenko et al.	:	
Application No.: 10/503,866	:	DECISION
PCT No.: PCT/US03/03942	:	
Int. Filing Date: 10 February 2003	:	ON
Priority Date: 08 February 2002	:	
Attorney Docket No.: NJMS-02-76	:	PETITION
For: IFN-Alpha/Beta-Independent	:	
Mechanism Of Antiviral Protection	:	

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 23 April 2007 and the supplemental response filed on 24 April 2007.

DISCUSSION

In a Decision mailed on 02 March 2007, the petition under 37 CFR 1.137(b) filed on 31 October 2006 was dismissed without prejudice because

> Regarding requirement (1), the "required reply" is the reply required by the Form PCT/DO/EO/922 mailed on 10 January 2005. The petition is accompanied by statements that the contents of the paper or compact disc and the CRF are the same and, where applicable, include no new matter. The Transmittal Letter filed on 06 August 2004 includes a general fee authorization. However, review of the application file and of the electronic (PALM) records of the USPTO reveals that no acceptable CRF is currently of record in the application. For this reason, the "required reply" requirement has not been satisfied at this time.

In the response filed on 23 April 2007, petitioner indicates that "enclosed is a CRF for the record." In the subsequent supplemental response, filed on 24 April 2007, petitioner instructs the USPTO to "Please replace the CRF submitted in response filed on April 23, 2007 with the enclosed CRF."

Review of the records of the USPTO reveals a notation entered into the PALM database, dated 15 May 2007, which states that "CRF DOES NOT MATCH APPLICATION SPECIFICATION - APPLICANT MUST CORRECT." The paper application file does not currently contain any information on this point (such as a CRF error report). However, based on the totality of the evidence currently of record, it would be appropriate to conclude that no acceptable CRF has yet been placed into the instant application file. As such, the renewed petition is DISMISSED, without prejudice, for failure to meet requirement (1) of 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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

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

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

United States Patent and Trademark Office

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

#7

University of Medicine and Dentistry of New Jersey
Office of Patents and Licensing
335 George Street
Suite 3200
New Brunswick, NJ 08901

02 MAR 2007

In re Application of	:	
Kotenko et al.	:	
Application No.: 10/503,866	:	DECISION
PCT No.: PCT/US03/03942	:	
Int. Filing Date: 10 February 2003	:	ON
Priority Date: 08 February 2002	:	
Attorney Docket No.: NJMS-02-76	:	PETITION
For: IFN-Alpha/Beta-Independent	:	
Mechanism Of Antiviral Protection	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 31 October 2006.

BACKGROUND

This international application was filed on 10 February 2003, claimed an earlier priority date of 08 February 2002, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 August 2004. Applicant filed *inter alia* the basic national fee on 06 August 2004.

On 10 January 2005, a Notification To Comply With Requirements... (Form PCT/DO/EO/922) was mailed to applicant, requiring the submission of $230.00 in additional small entity claims fees, an initial or substitute computer-readable form ("CRF") of the "Sequence Listing" and a statement that the contents of the paper or compact disc and the CRF are the same and, where applicable, include no new matter.

On 06 January 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the U.S. national stage for failure to timely reply to the Form PCT/DO/EO/922 mailed on 10 January 2005.

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" is the reply required by the Form PCT/DO/EO/922 mailed on 10 January 2005. The petition is accompanied by statements that the contents of the paper or compact disc and the CRF are the same and, where applicable, include no new matter. The Transmittal Letter filed on 06 August 2004 includes a general fee

authorization. However, review of the application file and of the electronic (PALM) records of the USPTO reveals that no acceptable CRF is currently of record in the application. For this reason, the "required reply" requirement has not been satisfied at this time.

Regarding requirement (2), the petition fee has been paid.

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

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 **DISMISSED**, without prejudice.

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

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

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

United States Patent and Trademark Office

#9

0 7 AUG 2007

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

University of Medicine and Dentistry of New Jersey
Office of Patents and Licensing
335 George Street
Suite 3200
New Brunswick, NJ 08901

In re Application of	:	
Kotenko et al.	:	
Application No.: 10/503,866	:	DECISION
PCT No.: PCT/US03/03942	:	
Int. Filing Date: 10 February 2003	:	ON
Priority Date: 08 February 2002	:	
Attorney Docket No.: NJMS-02-76	:	PETITION
For: IFN-Alpha/Beta-Independent	:	
Mechanism Of Antiviral Protection	:	

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 23 April 2007 and the supplemental response filed on 24 April 2007.

DISCUSSION

In a Decision mailed on 02 March 2007, the petition under 37 CFR 1.137(b) filed on 31 October 2006 was dismissed without prejudice because

> Regarding requirement (1), the "required reply" is the reply required by the Form PCT/DO/EO/922 mailed on 10 January 2005. The petition is accompanied by statements that the contents of the paper or compact disc and the CRF are the same and, where applicable, include no new matter. The Transmittal Letter filed on 06 August 2004 includes a general fee authorization. However, review of the application file and of the electronic (PALM) records of the USPTO reveals that no acceptable CRF is currently of record in the application. For this reason, the "required reply" requirement has not been satisfied at this time.

In the response filed on 23 April 2007, petitioner indicates that "enclosed is a CRF for the record." In the subsequent supplemental response, filed on 24 April 2007, petitioner instructs the USPTO to "Please replace the CRF submitted in response filed on April 23, 2007 with the enclosed CRF."

Review of the records of the USPTO reveals a notation entered into the PALM database, dated 15 May 2007, which states that "CRF DOES NOT MATCH APPLICATION SPECIFICATION - APPLICANT MUST CORRECT." The paper application file does not currently contain any information on this point (such as a CRF error report). However, based on the totality of the evidence currently of record, it would be appropriate to conclude that no acceptable CRF has yet been placed into the instant application file. As such, the renewed petition is DISMISSED, without prejudice, for failure to meet requirement (1) of 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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

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

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

0 4 MAY 2009

United States Patent and Trademark Office

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

University of Medicine and Dentistry of New Jersey
Office of Patents and Licensing
335 George Street
Suite 3200
New Brunswick, NJ 08901

In re Application of	:	
Kotenko et al.	:	
Application No.: 10/503,866	:	DECISION
PCT No.: PCT/US03/03942	:	
Int. Filing Date: 10 February 2003	:	ON
Priority Date: 08 February 2002	:	
Attorney Docket No.: NJMS-02-76	:	PETITION
For: IFN-Alpha/Beta-Independent		:
Mechanism Of Antiviral Protection	:	

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 20 February 2009.

DISCUSSION

In a Decision mailed on 07 August 2007, the renewed petition under 37 CFR 1.137(b) filed on 23 April 2007 was dismissed without prejudice because the required reply had not been filed. **In response**, petitioner has completed the "required reply" by the submission of an acceptable sequence listing on 20 February 2009.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The $810.00 petition fee (fee code 2453) paid on 20 February 2009 was not required, and it is being refunded.

DECISION

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

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **06 August 2004**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19103-3508

COPY MAILED

MAY 13 2008

OFFICE OF PETITIONS

In re Application of	:	
SAUCIUNAC, ANDREW	:	
Application No. 10/503,905	:	ON PETITION
Filed: 03/01/2005	:	
Attorney Docket No. 116849B	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of September 10, 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). Petitioner obtained an extensions of time for response within the second month pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the date of abandonment of this application is February 11, 2008.

In response to the final Office action, petitioner filed an amendment and a request for an extension of time for response within the second month (and fee) on Monday, February 11, 2008. The Examiner reviewed the amendment of February 11, 2008, and determined that the amendment did not place the application in condition for allowance, as stated in the Advisory Action of March 6, 2008. On March 17, 2008, petitioner submitted the present petition, a request for continued examination (RCE), and the requisite fees.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (and fee) and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1792 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/2007

TO SPE OF : ART UNIT 2800 (2833)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,963,032
Attn: Chau N. Nguyen

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter dependency changes to claims as req. in COCIN?**

Thank You For Your Assistance

Ernest C. White, LIE (703) 308-9390x122
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:

Dean A. Reichard 8/6/07
SPE

2831
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 05/06/2010

Applicant	: Takehiko Nakano	: DECISION ON REQUEST FOR
Patent Number	: 7626943	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/503,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

COPY MAILED

MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Aoki et al.	:	
Application No. 10/503,932	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 040400	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 Notice of Appeal (previously submitted on December 5, 2007), (2) the petition fee, and (3) a proper statement of unintentional delay.

The Notice of Appeal filed December 5, 2007, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

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

This matter is being referred to Technology Center 2832 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY, PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

SEP 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Hauke Philip Derek TALLON, et al	:	
Application No. 10/503,942	:	DECISION ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. 0055714-000001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 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.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 6, 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). 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 May 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; 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.

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 $1640 extension of time fee submitted with the petition on December 21, 2007. was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 02-4800.

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

This application is being referred to Technology Center AU 2859 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman Page
Petitions Examiner
Office of Petitions

Cc: SCOTT W. CUMMINGS
1737 KING STREET
ALEXANDRIA, VA 22314

OIPE IAP88
DEC 2 1 2007
PATENT & TRADEMARK OFFICE

Patent
Attorney's Docket No. 0055714-000001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	
Hauke Philip Derek Tallon et al.	Group Art Unit: 2859
Application No.: 10/503,942	Examiner: Amy Cohen Johnson
Filing Date: August 17, 2004	Confirmation No.: 3756
Title: TAPE MEASURE END PIECE WITH SLIDABLE HOOK	

PETITION FOR EXTENSION OF TIME

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

Refund Ref:
09/15/2008 0030061164

Credit Card Refund Total: $1640.00

Sir:

The following extension of time is requested to: to maintain pendency following the filing of a continuation application (filed November 7, 2007) for

Four Months to November 7, 2007 ☒ $ 1640 ☐ $ 820

☐ The shortened statutory period has been reset by an Advisory Action dated _____.

☐ An Extension fee in the amount of _____ is enclosed.

☐ Charge _____ to Deposit Account No. 02-4800.

☒ Charge $1640 to credit card. Form PTO-2038 is attached.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: December 21, 2007

By: Scott W. Cummings
Registration No. 41,567

12/26/2007 ATRINH 00000047 10503942
02 FC:1254 1640.00 OP

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620

Adjustment date: 09/15/2008 CKHLOK
12/26/2007 ATRINH 00000047 10503942
02 FC:1254 -1640.00 OP

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/12/08

2 Serial/Patent # 10/503,942

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	PET.OP	12/21/08	$ 1,640.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,640.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 ~~02--4800~~ Credit Card

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No extension of time needed, no fee due

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Diane Goodwyn TITLE: Paralegal

SIGNATURE: /dgoodwyn/ PHONE: 571-272-6735

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 9/15/08

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

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY, PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED
SEP 30 2008
OFFICE OF PETITIONS

In re Application of	:	
Hauke Philip Derek Tallon	:	CORRECTED DECISION
Application No. 10/503,942	:	ON PETITION
Filed: August 17, 2004	:	
Attorney Docket No. 0055714-000001	:	

This is a corrected decision on the petition under 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1540.00; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/979,718.
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 $1640.00 extension of time fee submitted with the petition on December 21, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 02-4800.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

The application file is being sent to File Repository.

Thurman K. Page
Petitions Examiner
Office of Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 JUL 2006

Lerner, David, Littenberg,
Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of	:	
KALT, et al.	:	
Application No.: 10/503,967	:	DECISION ON PETITION
PCT No.: PCT/US03/03882	:	
Int. Filing Date: 10 February 2003	:	UNDER 37 CFR 1.181
Priority Date: 09 February 2002	:	
Atty Docket No.: CK710-NP	:	
For: FLEXIBLE VIDEO DISPLAYS AND THEIR MANUFACTURE	:	

This decision is in response to applicant's unsigned correspondence filed 14 June 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 10 February 2003, applicant filed international application PCT/US03/03882 which claimed priority to an earlier application filed 09 February 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 09 August 2004.

On 09 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) and a preliminary amendment. An executed oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 09 February 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. 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 06 March 2006, applicant filed a "Power of Attorney and Correspondence Address Indication Form" indicating the appointment of practitioners associated with customer number 00530.

On 06 June 2006, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) informing applicant that an executed oath or declaration of the inventors was still outstanding. Applicant was afforded one month to respond.

On 14 June 2006, applicant filed the present unsigned response which included a stamped postcard for the 06 March 2006 filing.

DISCUSSION

Applicant's present response includes a copy of a purported filing of 11 July 2005. However, the stamped return postcard provided is for the filing of 06 March 2006. Thus, applicant has not shown that an executed oath or declaration of the inventors has been filed in the present application. As explained in the Manual of Patent Examining Procedure section 503:

It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).

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.

As applicant has not provided a showing that an oath or declaration was timely filed in response to the Form PCT/DO/EO/905 mailed on 09 February 2005 this application stands **ABANDONED** as to the National stage in the United States of America.

RECOMMENDATION

Applicant may wish to file a petition under 37 CFR 1.181 to withdraw the holding of abandonment complete with a stamped return postcard for the purported filing; a signature from an attorney of record attesting that the copy of the declaration filed is a true and complete copy and a compliant oath or declaration of the inventors.

Applicant may alternatively wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997).

This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Lastly, applicant is advised that the copy of the declaration filed on 14 June 2006 is non-compliant. This may have been the result of copying or faxing. 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.

The presently provided declaration seems to indicate the declarations were combined into two declarations or the inventors only returned their signature pages. Either situation is improper. The last three pages are of the second submitted declaration are copies of the last page executed separately by each of the named inventors. In addition, the document contains two copies of the second page; one execute by Thomas Kalt and one left blank.

CONCLUSION

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

This application is being returned to the Office of PCT Operations, National Stage Processing Branch, for preparation and mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

19 SEP 2006

Jonathan A. David
Lerner, David, Littenberg,
Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of	:	
KALT, et al.	:	
Application No.: 10/503,967	:	DECISION ON RENEWED
PCT No.: PCT/US03/03882	:	
Int. Filing Date: 10 February 2003	:	PETITION UNDER
Priority Date: 09 February 2002	:	
Atty Docket No.: CK710-NP	:	37 CFR 1.181 AND
For: FLEXIBLE VIDEO DISPLAYS AND THEIR	:	
MANUFACTURE	:	37 CFR 1.42

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181 (a)" filed 06 September 2006 in the United States Patent and Trademark Office. The filed papers contain a declaration executed by the legal representative of one of the joint inventors and is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 20 July 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 06 September 2006, applicant filed the present petition.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.181

Applicant has presently provided sufficient proof to show that a power of attorney and change of correspondence address form was filed prior to the mailing of the "Notification of Defective Response" (Form PCT/DO/EO/916) on 06 June 2006. As the form was mailed to an incorrect address, applicant was not afforded the one month to provide a compliant, executed oath or declaration of the inventors. Therefore, it is proper to grant applicant's renewed petition at this time to withdraw the holding of abandonment at this time.

II. Request For Status Under 37 CFR 1.42

A review of the present filing finds that applicant has submitted complete, executed declarations of the inventors.

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 presently filed declaration is executed by Thomas F. Kalt as the legal representative of inventor Charles G. Kalt. The declaration provides all of the required information and therefore it is appropriate to grant applicant's request for status at this time. A review of the filed declarations finds them in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 is **GRANTED**.

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

The Form PCT/DO/EO/916 mailed 06 June 2006 and the "Notification of Abandonment" (Form Pct/DO/EO/909) mailed 07 August 2006 are **VACATED**.

This application has an international application filing date of 10 February 2003 and will be given a date of **06 September 2006** 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMANN & BARON
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

COPY MAILED

DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Hendricus Antonius Hoogland	:	
Application No. 10/503,970	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 294196 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, an attorney of record.

Justin K. Holmes has been withdrawn as attorney or agent of record; all other attorneys remain of record.

This matter is being referred to Technology Center AU 3724 for examination in due course.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

13 FEB 2006

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of HONMA et al. Application No.: 10/503,972 PCT No.: PCT/JP03/02799 Int. Filing: 10 March 2003 Priority Date: 11 March 2002 Attorney Docket No.: 500.44086X00 For: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 03 June 2005 to accept the application without the signatures of joint inventors, Takashi Wada. Additionally, this decision is in response to applicants' "Response to Notification of Defective Response" filed 23 November 2005.

BACKGROUND

On 10 March 2003, applicants filed international application PCT/JP03/02799 which claimed a priority date of 11 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 September 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 11 September 2004.

On 10 August 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 translation of the international application; and an information disclosure statement.

On 08 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 06 May 2005, applicants filed a declaration executed by five of the six joint-inventors.

On 03 June 2005, applicants filed "Supplement to Reply to Notification of Missing Requirements" which included a petition under 37 CFR 1.47(a) and a one month extension of time.

On 24 October 2005, 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 23 November 2005, applicants filed "Response to Notification of Defective Response."

DISCUSSION

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

Regarding item (1), applicants have only provided payment of $130.00 for the petition fee. Applicants are advised that pursuant to 37 CFR 1.17(g) the petition fee is $200.00. As authorized, the additional $70.00 due will be deducted from deposit account no.: 01-2135.

Regarding item (2) above, petitioner states that Takashi Wada cannot be found or after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

A review of the present petition reveals that applicants have not provided an acceptable showing that a diligent effort was made to reach the nonsigning inventor, Takashi Wada. The Declaration of Shinya Yamaji states "we sent the application papers to Mr. Wada's last known address . . .the mail was returned as undeliverable." Petitioner has provided a copy of the envelope addressed to Takashi Wada, however, the information on the envelope has not been translated. Additionally, were any other attempts made to locate Takashi Wada? The single mailing of the papers to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Takashi Wada.

As to item (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 has been included with the present petition. However, the declaration filed 06 May 2005 is not acceptable under 37 CFR 1.497. Specifically, the declaration is executed by Noriyuki Ooroku and Hitoshi Odashima, whereas the international application lists the inventor as Noriyuki Oroku and Hitoshi Odajima. As stated MPEP 201.03,

> "a request under 37 CFR 1.48 will not be required: (B) Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required."

Applicants have not provided an explanation of the typographical or transliteration error of inventor Noriyuki Ooroku and Hitoshi Odashima.

For the above reasons, it would not be appropriate to accept this application without the signature of Takashi Wada at this time.

CONCLUSION

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

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

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box

1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

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

12 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of HONMA et al. Application No.: 10/503,972 PCT No.: PCT/JP03/02799 Int. Filing: 10 March 2003 Priority Date: 11 March 2002 Attorney Docket No.: 500.44086X00 For: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 20 March 2006 to accept the application without the signatures of joint inventors, Takashi Wada.

BACKGROUND

On 10 March 2003, applicants filed international application PCT/JP03/02799 which claimed a priority date of 11 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 September 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 11 September 2004.

On 10 August 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 translation of the international application; and an information disclosure statement.

On 08 March 2005, the United Stated Designated/Elected Office mailed a Notification of Mi[illegible]ments under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an [illegible] 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 06 May 2005, applicants filed a declaration executed by five of the six joint-inventors.

On 03 June 2005, applicants filed "Supplement to Reply to Notification of Missing

Requirements" which included a petition under 37 CFR 1.47(a) and a one month extension of time.

On 24 October 2005, 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 23 November 2005, applicants filed "Response to Notification of Defective Response."

In a decision dated 13 February 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On March 2006, 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) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1); (3) and (4) have been satisfied.

Regarding item (2) above, petitioner states that Takashi Wada cannot be found or after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

As stated in the previous petition, petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Takashi Wada. Petitioner states that "applicants submit that diligent efforts were made to find Mr. Wada, but such efforts were not successful, as noted in paragraph 9 of the (Shinya Yanaji) Declaration." However, a review of the declaration, including paragraph 8 and 9, fails to include evidence to determine the possible whereabouts of the missing inventor. In this case, a diligent effort may be a search of Internet and/or telephone directories to determine if Takashi Wada has a forwarding address and/or telephone number.

As to item (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 has been included with the petition under 37 CFR 1.47(a). Applicants have provided an explanation of the transliteration error regarding Noriyuki Ooroku and Hitoshi Odashima pursuant to Section 201.03 of the Manual of Patent Examining Procedure. Accordingly, applicants' explanation of the difference in the spelling of the inventors' name is accepted and noted for the record.

For the above reasons, it would not be appropriate to accept this application without the signature of Takashi Wada at this time.

For the above reasons, it would not be appropriate to accept this application without the signature of Takashi Wada at this time.

CONCLUSION

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) 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 PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

17 JUL 2006

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of HONMA et al. Application No.: 10/503,972 PCT No.: PCT/JP03/02799 Int. Filing: 10 March 2003 Priority Date: 11 March 2002 Attorney Docket No.: 500.44086X00 For: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 12 June 2006. In a decision dated 12 April 2006, the "Petition under 37 CFR 1.47(a)" filed 20 March 2006 was dismissed because applicant did not provide adequate proof that the missing inventor, Takashi Wada, refused to execute the application or could not be reached after diligent effort. The procedural background for this application was set forth in detail in the decision mailed by this Office on 12 April 2006.

DISCUSSION

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

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

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application will be given an international filing date of 10 March 2003 under 35 U.S.C. 363, and a date of **06 May 2005** 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 PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

17 JUL 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

Takashi Wada
3-8-23 Kugenuma-matsugaoka 3-chome
Fujisawa-shi,Kanagawa 251-0038
Japan

In re Application of
HONMA et al.
Application No.: 10/503,972
PCT No.: PCT/JP03/02799
Int. Filing: 10 March 2003
Priority Date: 11 March 2002
Attorney Docket No.: 500.44086X00
For: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE

Dear Takashi Wada:

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

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

Anthony Smith

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

Counsel of Record:
Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 0 9 2008

In re Application of	:	
Jeanette Ann Digney	:	
Application No. 10/503,997	:	ON PETITION
Filed: August 9, 2004	:	
Attorney Docket No. 14410.10	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 12, 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 8, 2007. 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 June 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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 the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3765 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/503,997	08/09/2004	Jeanette Ann Digney	14410.10

CONFIRMATION NO. 6525

POA ACCEPTANCE LETTER

21999
KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

OC000000030344480

Date Mailed: 06/06/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/12/2007.

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

/amwise/

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

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

DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

Mail Date: 06/18/2010

Applicant	: Olivier Gaide	: DECISION ON REQUEST FOR
Patent Number	: 7736657	: RECALCULATION of PATENT
Issue Date	: 06/15/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/503,999	: OF WYETH
Filed	: 10/25/2004	:
		:

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.

07 SEP 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

Freescale Semiconductor Inc
7700 W Parmer Lane
MD: TX32/PL02
Austin, TX 78729

In re Application of	:	
LABBE, Patrick et al.	:	
Application No.: 10/504,010	:	DECISION ON
PCT No.: PCT/EP03/00224	:	
Int. Filing Date: 13 January 2003	:	PETITION UNDER
Priority Date: 08 February 2002	:	
Attorney Docket No.: CR00561P	:	37 CFR 1.137(b)
For: OPTICAL TO RADIO FREQUENCY	:	
DETECTOR	:	

This is a decision on applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 25 July 2006.

BACKGROUND

On 06 August 2004, applicants submitted a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 23 December 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

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

On 25 July 2006, applicants submitted the instant petition, accompanied by a declaration of the inventors.

DISCUSSION

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

Item s (1), (3) and (4) have been satisfied. Applicants have made the necessary statement that the entire delay was unintentional. Applicants have paid the petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (2) has not been satisfied. The required reply is an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration. The declaration supplied by applicants does not comply with 37 CFR 1.497(a)-(b). Applicants have supplied one page each of pages 1 through 3 and two pages 4. Each page 4 lists the same inventors, but was separately executed. Though it is acceptable for inventors to execute separate copies of the oath or declaration, the entire oath or declaration as executed by the inventors must be submitted. It is not acceptable to create a single declaration by piecing together separately executed declarations of the inventors. A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

An extension of time fee is not required, but the fee for late filing of the oath or declaration is required. The balance of the fee for late filing of the oath or declaration will be charged to deposit account no. 50-3079, as authorized.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

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

09/07/2006 SBASHEIR 00000005 503079 10504010
01 FC:1617 130.00 DA

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Adjustment Date: 09/07/2006 SBASHEIR
07/27/2006 WABDELR1 00000002 503079 10504010
02 FC:1251 120.00 CR

01 DEC 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

Freescale Semiconductor Inc
7700 W Parmer Lane
MD: TX32/PL02
Austin, TX 78729

In re Application of	:	
LABBE, Patrick et al.	:	
Application No.: 10/504,010	:	DECISION ON
PCT No.: PCT/EP03/00224	:	
Int. Filing Date: 13 January 2003	:	PETITION UNDER
Priority Date: 08 February 2002	:	
Attorney Docket No.: CR00561P	:	37 CFR 1.137(b)
For: OPTICAL TO RADIO FREQUENCY	:	
DETECTOR	:	

This is a decision on applicants' "Renewed Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 07 November 2006.

BACKGROUND

On 07 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 07 November 2006, applicants submitted this renewed petition accompanied by a declaration of the inventors.

DISCUSSION

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

Item (2) has now been satisfied. The required reply is an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration. The declaration supplied by applicants complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

COPY MAILED

SEP 19 2008

In re Application of :
Hidefumi Mizushima, et al. :
Application No. 10/504,025 : ON PETITION
Filed: August 9, 2004 :
Attorney Docket No. MIZUSHIMA1 :

This is a decision on the petition, filed May 19, 2008, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 13, 2007. This decision precedes the mailing of a Notice of Abandonment. 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). On November 14, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $510; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1644 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

10 JUN 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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

Robert S. Lipton
LIPTON, WEINBERGER & HUSICK
201 North Jackson Street
P.O. Box 934
Media, PA 19063-0934

In re Application of	:	DECISION ON
Vitiello et al	:	
Application No.: 10/504,031	:	
PCT No.: PCT/US04/22210	:	
Int. Filing Date: 09 July 2004	:	PETITION UNDER
Priority Date: 09 July 2003	:	
Attorney Docket No.: 5499-15.1	:	
For: COMPREHENSIVE NEUROMUSCULAR	:	
PROFILER	:	37 CFR 1.181

This is in response to applicants' submission "PETITION REQUESTING CHANGE OF NAME AND CITIZENSHIP OF INVENTOR" filed on 19 April 2005, which is being treated as petition under 37 CFR 1.181. This submission states that the correct listing of the second inventor's first name is Charles Dean Cyphery, and his citizenship is from Canada, and that the published PCT application inadvertently indicated his name as Dean Cyphery and citizenship from the U.S.

BACKGROUND

On 09 August 2004, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed oath or declaration was filed at that time.

On 25 January 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), in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The notification indicated that all of the items set forth above must be submitted within two (2) months from date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 19 April 2005, applicants submitted, *inter alia*, "Petition" and an executed declaration of the inventors with the correct name of the second inventor as Charles Dean Cyphery, and citizenship from Canada.

DISCUSSION

The correct name of the second inventor is "Charles Dean Cyphery" and his citizenship is from Canada and not what was listed on the published PCT application, which listed his name as Dean Cyphery and the citizenship as United States of America. The correct name Charles Dean Cyphery and his citizenship from Canada will be reflected in the US national stage processing.

Applicant's response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 25 January 2005.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED.** The application will be granted a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of **19 April 2005.**

For the reasons above, the application may enter into national stage processing at this time. The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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

12 JUN 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

30996
ROBERT W. BECKER & ASSOCIATES
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of	:	
LUCHT *et al*	:	
U.S. Application No.: 10/504,035	:	
PCT No.: PCT/EP2003/000996	:	
Int. Filing Date: 01 February 2003	:	**DECISION**
Priority Date: 07 February 2002	:	
Attorney Docket No.: AFK 16163-WO-US	:	
For: SAFETY BELT RETRACTOR WITH A SELECTIVELY ACTIVATABLE SHOCK ABSORBER	:	

This is a decision on the documents filed on 26 April 2006 which are treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 12 October 2004, applicants filed a letter which was accompanied by, *inter alia*, a declaration, a surcharge fee and an assignment fee.

On 05 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 English translation and processing fee was required. Applicants were given two months to respond with extensions of time available.

On 18 April 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed for failing to respond to the Form PCT/DO/EO/905 mailed 05 November 2004 within the time period set therein.

On 26 April 2006, applicants submitted the subject petition which was accompanied by, *inter alia*, a copy of the response filed 12 October 2004 and date-stamped postcard receipt for the 12 October 2004 response.

DISCUSSION

Petitioners request to withdraw the holding of abandonment claiming that a declaration, IDS and a surcharge fee was submitted on 12 October 2004.

These papers were received and are located in the subject application.

However, the Form PCT/DO/EO/905 required an English translation and processing fee, not a declaration. The number of claims in the international application (IA) and translation provided were not the same. Applicants are required to provide an English translation of the IA as filed. *See* 35 U.S.C. 371(c)(2).

There is no record that applicants submitted the required English translation.

CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants may also wish to consider to revive the above-captioned application pursuant to 37 CFR 1.137(b).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 SEP 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

30996
ROBERT W. BECKER & ASSOCIATES
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of :
LUCHT *et al* :
U.S. Application No.: 10/504,035 :
PCT No.: PCT/EP2003/000996 :
Int. Filing Date: 01 February 2003 : **DECISION**
Priority Date: 07 February 2002 :
Attorney Docket No.: AFK 16163-WO-US :
For: SAFETY BELT RETRACTOR WITH A :
SELECTIVELY ACTIVATABLE SHOCK :
ABSORBER :

This is a decision on the "Request for Reconsideration of Decision Dated 12 June 2006" filed on 10 August 2006 which is treated as a renewed petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 12 June 2006, a decision dismissing applicants' petition to withdraw the holding of abandonment was mailed.

On 10 August 2006, applicants submitted a request for reconsideration which was accompanied by, *inter alia*, an English translation of claims 5 - 12.

DISCUSSION

The subject application was abandoned for failing to provide an English translation of the application prior to the expiration of the deadline listed on the Form PCT/DO/EO/905 mailed 05 November 2004. The number of claims in the international application (IA) and the English translation provided were not the same.

In the request for reconsideration, applicant states that:

> [A]lthough the English translation was erroneously lacking the English translation of claims 5-12 and was therefore incomplete at the time of filing, the PCT specification and claims were forwarded to the US Patent Office showing that claims 5-12 were originally part of the International Application. In addition, a reproduction of the language of these claims can also be found in the text of the English translation of the specification,

(page 5, line 1 through page 7, line 16) which was filed on August 5, 2004.

Under 35 U.S.C. 371(c)(2), applicants must supply a translation of the International Application, if the application was filed in another language. The translation requirement is discussed in section 1893.01(d) of the MPEP which states, in part:

> The translation must be a translation of the international application as filed with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. A translation of less than all of the international application (e.g., a translation that fails to include a translation of text contained in the drawings or a translation that includes a translation of claims amended under PCT Article 19 or 34 but does not include a translation of the original claims) is unacceptable. In addition, a translation that includes modifications other than changes that have been properly accepted under PCT Rule 26 or 91 (e.g., a translation that includes headings that were not present in the international application as originally filed) is unacceptable. . . .
>
> Amendments, even those considered to be minor or to not include new matter, may not be incorporated into the translation. If an amendment to the international application as filed is desired for the national stage, it may be submitted in accordance with 37 CFR 1.121.

In this case, the English translation provided was clearly unacceptable. The above-captioned application was properly abandoned for failing to respond to timely respond to the Form PCT/DO/EO/905 mailed 05 November 2004.

CONCLUSION

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

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants may also wish to consider to revive the above-captioned application pursuant to 37 CFR 1.137(b).

Applicants should note that an English translation of the international application as filed with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91 and a $130.00 processing fee pursuant to 37 CFR 1.492(f) is required as the appropriate response for a petition to revive under 37 CFR 1.137(b).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 DEC 2006

30996
ROBERT W. BECKER & ASSOCIATES
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of
LUCHT *et al*
U.S. Application No.: 10/504,035
PCT No.: PCT/EP2003/000996
Int. Filing Date: 01 February 2003
Priority Date: 07 February 2002
Attorney Docket No.: AFK 16163-WO-US
For: SAFETY BELT RETRACTOR WITH A SELECTIVELY ACTIVATABLE SHOCK ABSORBER

DECISION

Applicants' petition to revive under 37 CFR 1.137(b) filed on 14 November 2006 is hereby **GRANTED** as follows:

An English translation of the missing claims 5-12 was provided. The petition fee of $1,500.00 was submitted. The processing fee of $130.00 for an English translation pursuant to 37 CFR 1.492(f) was charged to Deposit Account No. 02-1653 as authorized. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted on 12 October 2004. The English translation was submitted 14 November 2006.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

05 JUL 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
7th Floor
Los Angeles CA 90025

In re Application of	:	
WANG, Chuanfu et al.	:	
Application No.: 10/504,070	:	DECISION ON
PCT No.: PCT/CN02/00793	:	
Int. Filing Date: 07 November 2002	:	PETITION
Priority Date: 04 February 2002	:	
Attorney Docket No.: 5351P002	:	UNDER 37 CFR 1.182
For: LITHIUM SECONDARY BATTERY	:	
HAVING INTERNAL PROTECTION	:	
CIRCUIT	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment, filed on 26 February 2007. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 02-2666, as authorized.

BACKGROUND

On 07 November 2002, applicant filed international application PCT/CN02/00793, which claimed a priority date of 04 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 August 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 04 August 2004.

On 04 August 2004, applicant submitted a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 09 March 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration and the surcharge for late filing of the oath or declaration.

On 22 December 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 26 February 2007, applicants filed this petition under 37 CFR 1.182.

DISCUSSION

A petition to accord a receipt date to paperwork must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt for 10/504,**707**, but listing this application's docket number, international application number and title, stamped 11 May 2005 and listing declaration. The declaration for this application was located in 10/504,707. As the papers were directed to an incorrect application, the fee for a Petition Under 37 CFR 1.182 will be charged to deposit account no. 02-2666, as authorized

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 11 May 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

07/03/2007 SBASHEIR 00000003 022666 10504070
Sale Ref: 00000004 DA#: 022666 10504070
01 FC:1462 400.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
SEP 19 2006
OFFICE OF PETITIONS

Cooley Godward LLP
Attn: Patent Group
The Bowen Building
875 15th Street, N.W. Suite 800
Washington, D.C. 20005-2221

In re Application of	:	
Uwe Scherf et al.	:	
Application No. 10/504,072	:	DECISION ON PETITION
Filed: April 11, 2005	:	TO WITHDRAW
Attorney Docket No. GENE-002/04US	:	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 10, 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 Michael S. Tuscan on behalf of all attorneys of record who are associated with Customer No. 022903.

All attorneys/agents associated with the Customer No. 022903 have been withdrawn.

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

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

There is no outstanding Office action at this time.
Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Uwe Scherf**
1425 Fallsmead Way
Potomac, MD 20854

cc: **Morgan Lewis & Bockius LLP**
1111 Pennsylvania Ave., N.W.
Washington D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/504,072	04/11/2005	Uwe Scherf	GENE-002/04US

CONFIRMATION NO. 5003

OC000000020451795

OC000000020451795

022903
COOLEY GODWARD LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

Date Mailed: 09/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2006.

- 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.

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

29 MAR 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Felix J. D'Ambrosio
BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314-1176

In re Application of
BITTO, Ennino *et al*
U.S. Application No.: 10/504,075
PCT No.: PCT/EP02/09211
Int. Filing Date: 17 August 2002
Priority Date: 29 August 2001
Attorney Docket No.: BITT3006/FJD
For: VIBRATIONAL-TYPE MEASURING PICKUP

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

Applicants' "Petition Under 37 C.F.R. §1.137(b)" filed with the national stage papers on 09 August 2004 is hereby **GRANTED** as follows:

The basic national fee, processing fee, surcharge fee and petition fee have been paid. Applicants state that "[t]he failure to file the U.S. national phase application and the delay in filing this Petition was unintentional" has been interpreted as meeting the requirements of 37 CFR 1.137(b)(3). If this interpretation is incorrect, applicants should notify the Office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was filed 09 August 2004.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 August 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 09 August 2004.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

12 APR 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James V. Costigan
Hedman & Costigan, P.C.
1185 Avenue of the Americas
New York, New York 10510-0827

In re Application of	:	
MORI et al.	:	
Application No.: 10/504,112	:	DECISION ON REQUEST
PCT No.: PCT/JP03/00839	:	
Int. Filing Date: 29 January 2003	:	
Priority Date: 20 February 2002	:	
Attorney Docket No.: 645-171	:	
For: OPTICAL GLASS		

This decision is in response to applicant's "Letter" filed in the United States Patent and Trademark Office on 31 January 2005.

BACKGROUND

On 29 January 2003, applicant filed international application PCT/JP03/00839 which claimed a priority date of 20 February 2002. The international application listed Katsuo Mori and Masahiro Onozawa as inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 20 August 2004.

On 10 August 2004, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application; and an executed declaration.

On 12 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration was defective because the name of the first inventor (Yushio Mori) was different than that which originally filed with the International Bureau (Katsuo Mori). The notification set a two-month time limit in which to respond.

On 31 January 2005, applicant filed "Letter" which states that the correct name of the first inventor is Yushio Mori, not Katsuo Mori.

DISCUSSION

A review of the declaration reveals that the correct name of the first inventor is Yushio Mori. 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. Such a petition must be accompanied by the requisite petition fee of $400 as well as verified statement 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 **ONE (1) MONTH** 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. 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 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
Facsimile: (571) 273-0459

07 JUN 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James V. Costigan
Hedman & Costigan, P.C.
1185 Avenue of the Americas
New York, New York 10036

In re Application of	:	
MORI et al.	:	
Application No.: 10/504,112	:	DECISION ON PETITION
PCT No.: PCT/JP03/00839	:	
Int. Filing Date: 29 January 2003	:	
Priority Date: 20 February 2002	:	
Attorney Docket No.: 645-171	:	
For: OPTICAL GLASS		

This decision is in response to applicant's "Petition under 37 CFR 1.182" filed in the United States Patent and Trademark Office on 16 May 2005, which is being treated as a Petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 29 January 2003, applicant filed international application PCT/JP03/00839 which claimed a priority date of 20 February 2002. The international application listed Katsuo Mori and Masahiro Onozawa as inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 20 August 2004.

On 10 August 2004, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application; and an executed declaration.

On 12 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration was defective because the name of the first inventor (Yushio Mori) was different than that which originally filed with the International Bureau (Katsuo Mori). The notification set a two-month time limit in which to respond.

On 31 January 2005, applicant filed "Letter" which states that the correct name of the first inventor is Yushio Mori, not Katsuo Mori. In a "Decision on Request" dated 12 April 2005, the Office of PCT Legal Administration indicated that the declaration filed 10 August 2004 was not in compliance with 37 CFR 1.497.

On 16 May 2005, applicant filed the present petition.

DISCUSSION

A review of the present petition, including the declaration of Yoichi Horikoshi, reveals that without deceptive intent the PCT documents corresponding to the above identified application incorrectly transliterated the first name of the inventor as "Katsuo Mori" instead of "Yoshio Mori." 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, the applicant's explanation of the difference in the spelling of the first inventor's name is accepted and noted for the record.

CONCLUSION

For the reasons above, the request is **GRANTED**.

The application has an international filing date of 29 January 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **10 August 2004.**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/504,114	03/11/2005	Sean F. Flynn	P32995	6789

20462 7590 10/29/2008
SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

EXAMINER
TRUONG, TAMTHOM NGO

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
10/29/2008	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):

US_cipkop@gsk.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 2 9 2008

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

In re Application of:	:
Flynn et al.	:
Serial No.: 10/504,114	: PETITION DECISION
Filed: March 11, 2005	:
Attorney Docket No.: **P32995**	:

This is in response to the petition under 37 CFR § 1.181, filed September 26, 2008, requesting that the finality of the Office action of September 18, 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 1-23 were pending and examined on their merits. In this non-final Office action, the examiner rejected claims 6, 7, 10-13, 14, 17-21 and 23 under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; rejected claims 1-5, 7, 8 and 10-23 under 35 U.S.C. § 112, first paragraph, for lacking scope of enablement and rejected claims 1, 8-13 and 15 under 35 U.S.C. §103(a) as obvious over Zhou et al.

In response to the non-final Office action of March 26, 2008, applicants filed a response on June 10, 2008, wherein said response included the cancellation of claims 1-23 and the addition of new claims 24-34.

The examiner mailed final Office action on September 18, 2008 setting a three month statutory limit for reply. At the time of this final Office action, claims 24-34 were pending and examined on their merits. In this final Office action, the examiner rejected claims 24-28 and 30-33 under 35 U.S.C. § 112, second paragraph; rejected claims 24, 25, 31 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Winter et al.; and rejected claims 24, 25, 27 and 31-33 under 35 U.S.C. § 103(a) as being unpatentable over Bigge et al. The examiner additionally indicated claims 29 and 34 as being allowable.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on September 26, 2008, requesting that the finality of the Office action of September 18, 2008 be withdrawn.

DISCUSSION

In the petition filed on September 26, 2008, applicants argue that the examiner instituted new grounds of rejection in the final Office action upon rejecting claims 24, 25, 31 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Winter et al. and rejecting claims 24, 25, 27 and 31-33 under 35 U.S.C. § 103(a) as being unpatentable over Bigge et al. Applicants request the removal of the finality of the Office action mailed September 18, 2008 contending that the finality of said Office action was premature and thus in error. Applicants allege that their amendment filed on June 10, 2008, in the interim between the non-final and final Office actions, did not necessitate the examiner's new grounds of rejection in the final Office action thus rendering the finality of the Office action of September 18, 2008 improper:

> The rejection was made final, even though these rejections had not been made in the prior Office Action, dated March 26, 2008. The new ground of rejection, based upon new references, was not necessitated by applicants' amendments, dated June 10, 2008. The Examiner asserts that cancellation of claims 1-23 and presentation of new claims 24-34 necessitated the new grounds of rejection. However, the claimed subject matter which led to the new rejections under 35 U.S.C. § 103 (a) was present in the pending claims at the time of the first Office Action mailed March 26, 2008, where no such rejection was made. (p. 1, Petition)

Applicants additionally cite the MPEP § 706.07(a) in support of their contentions and argue:

> ...although second or subsequent Office Actions may be final, it is not proper for an Office Action to be made final when 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...a final rejection is improper where there is another new ground of rejection introduced by the examiner which was not necessitated by amendment to the claims or based on information submitted in an information disclosure statement." (p. 2, Petition).

It is clear that upon rewriting their broadest claim, the broadest claim being claim 1 at the time the non-final Office action was mailed, and claim 24 at the time the final Office action was mailed, applicants omitted the species of "wherein A is..... phenyl". In the non-final Office action, it is evident that the examiner chose this species for examination on the merits, as the prior art reference used in the 35 USC 103(a) rejection, that being Zhou et al., taught a compound similar to claim 1, wherein A was a phenyl group substituted with –(Z)b-B; wherein Z is oxygen, b=1 and B is hydrogen; or –(Z)b-B is a hydroxyl (OH-) group (see page 8, non-final Office action of March 26, 2008).

Thus, the omission of "wherein A is optionally substituted phenyl" from the broadest claim, claim 24, in the claim amendments submitted by applicants on June 10, 2008, initiated the examination and subsequent rejection of another alternative chosen by the examiner from the Markush group of claim 24; that alternative being 'wherein A is an optionally substituted quinolinyl group.'

The provision of MPEP 904.2 that a search should cover the claimed subject matter and should also cover the disclosed features which might reasonably be expected to be claimed does not

preclude an examiner from making the second or any subsequent Office action on the merits final if the Office action contains a new ground of rejection that was necessitated solely by applicants' amendment of the claims to eliminate an unpatentable alternative. An examiner cannot be expected to foresee whether or how applicants will amend a claim to overcome a rejection except in very limited circumstances:

> A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. *However, note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances* (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph). (MPEP § 706.07, emphasis added).

The new rejections rendered by the examiner under 35 USC 103(a) in the final Office action of September 18, 2008 did not preclude making the Office action final because it is decided that the examiner could not reasonably foresee that applicants would eventually replace the original claims with claims which excluded the embodiment of 'wherein A is an optionally substituted phenyl.'

Thus, applicants' arguments are not persuasive that the final Office action issued September 18, 2008 was premature and, therefore, finality of the Office action will not be withdrawn.

DECISION

The petition is **DENIED.**

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

Remy Yucel
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061129A

DATE : November 29, 2006

TO SPE OF : ART UNIT 3644

SUBJECT : Request for Certificate of Correction on Patent No.: 7,004,425

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: Teri Luu **Art Unit** 3644

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
CORPORATE PATENT COUNSEL
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

COPY MAILED
AUG 1 8 2008

In re Application of	:	
Johannes H. Wessels	:	
Application No. 10/504,139	:	DECISION ON PETITION
Filed: August 10, 2004	:	
Attorney Docket No. NL 020162	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were timely obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 10, 2007, 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 11, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Further, 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 $1,050.00, three month extension of time fee submitted with the petition on July 21, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 2821 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON DC 20006

COPY MAILED

MAY 1 8 2007

OFFICE OF PETITIONS

In re Application of

WOO, Hee-Jong
Application No. 10/504,145
Filed: August 19, 2004
Attorney Docket No. **122998-05004593**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 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 Yoon S. Ham on behalf of all attorneys of record who are associated with customer No. 43569. 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: **HEE-JONG WOO**
101 UNIVILL, 1523-8, SEOCHO-DONG, SEOCHO-GU
SEOUL, REPUBLIC OF KOREA 137-070

cc: **SQUIRE, SANDERS & DEMPSEY L.L.P**
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO, CA 94111-3492

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/504,145	08/19/2004	Hee-Jong Woo	122998-05004593

CONFIRMATION NO. 3924

OC000000023814842

43569
MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON, DC 20006

Date Mailed: 05/10/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2007.

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

Michelle R. Eason
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
JUN 19 2008
OFFICE OF PETITIONS

THELEN REID BROWN
RAYSMAN & STEINER LLP
P.O. BOX 640640
SAN JOSE CA 95164-0640

In re Application of	:	
Woo	:	
Application No. 10/504,145	:	DECISION
Filed: 19 August, 2004	:	
Attorney Docket No. 060445 000005	:	

This is a decision on the petition, filed on 1 April 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing as to non-receipt requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt

acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to a final Office action mailed on 25 July, 2007, with reply due absent extension of time on or before 25 October, 2007.

The application went abandoned after midnight 25 October, 2007.

The Office mailed the Notice of Abandonment on 20 March, 2008.

On 1 April, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that the Office had ignored the withdrawal of Counsel and mailed the Office action to the Applicant, rather than to Petitioner.

It is noted that prior Counsel sought to withdraw in January, 2008 and on 18 May, 2008, the Office mailed to the former Counsel and to Applicant Notice that the withdrawal had been granted. However, Petitioner appears to ignore the following express statements from that decision: "[T]here is no attorney of record as of this time *** [and] the request to change the correspondence address is not acceptable ***. All future communications from the Office will be directed to the first named signing inventor." (Emphasis supplied.)

Thereafter, Applicant and/or Petitioner delayed until 23 July, 2008, to cure that deficiency and submit for filing a Power of Attorney.

The Examiner mailed the final Office action only two (2) days later, on 25 July, 2008.

Nonetheless, because the instruction from the Applicant was received in the Office before the final Office action was mailed, Petitioner has demonstrated that the final Office action was mailed to an address other than that to which the Office had been Noticed.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

---

[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

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

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is 2'shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

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

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

(*See* MPEP §711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternatively "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (*See*, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

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

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 20 March, 2008, Notice of Abandonment is **vacated**.

---

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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

The instant application is released to Technology Center/AU 1643 for further processing in due course—including the re-mailing of the Office action in question.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,615,619
Issued: November 10, 2009
Application No. 10/504,165
Filed: May 23, 2005
Attorney Docket No. IMANISHI5

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

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on January 11, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 223 days to 463 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 four hundred sixty-two (462) 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 14, 2007, the day after the 36 month anniversary of the national stage commencement under 35 U.S.C. 371(b), and ends on April 8, 2008, the day before the RCE was filed, the B delay is 236 (not 240) days.[1] See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 462, not 463days.

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.

[1]Although a request was made under 35 U.S.C. 371(f) for early processing, the applicant did not complete the requirements of 35 U.S.C. 371(c) until May 23, 2005, hence the provisions of 35 U.S.C. 371(f) are not applicable in this case.

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 **four hundred sixty-two (462)** days.

Telephone inquiries specific 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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,615,619 B2

DATED : November 10, 2009

INVENTOR(S) : Takeshi Imanishi

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 (223) days

Delete the phrase "by 223 days" and insert – by 462 days--

SPE: D. Wu

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/06

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/504,170 Patent No.: 6977284

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.

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

Comments: They are printing errors

D. Wu — SPE

1713 — 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

MAILED

OCT 06 2005

Director's Office
Group 3700

Daniel G. Radler
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202

In re Application of :
Anton Herrius De Roest :
Serial No.: 10/504,186 :
Filed: August 11, 2004 : DECISION ON PETITION

For: **WIND TURBINE**

This is in response to applicants' Petition filed April 06, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt, by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 272-8300.

Richard A. Bertsch

Richard A. Bertsch
Dirctor
Technology Center 3700
571-272-3750

rt 10/05/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 1 8 2006

OFFICE OF PETITIONS

QUARLES & BRADY
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

In re Application of	:	
Anton Herrius De Roest	:	
Application No. 10/504,186	:	ON PETITION
Filed: March 4, 2005	:	
Attorney Docket No. 930841.00006	:	

This is a decision on the petition, filed January 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3745 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-14-07

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction on Patent No.: 7160085 B2 (10/504186

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.

Should claim be entered as requested?

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Prosecution of the application is closed.

11/29/07

SPE

3745
Art Unit

12-31-07

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,160,085B2
Inventor(s) : Anton Herrius de Roest
Issued : January 9, 2007
For: WIND TURBINE

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error for adding of the claims 24, 25 & 26, prosecution of the application is closed.

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

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Daniel G. Radler
Quarles & Brady
411 E. Wisconsin Avenue
Milwaukee, WI 53202

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-10-08

Paper No.: ____

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction on Patent No.: 2160085 (10/504186

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.

3rd Req. Reconsideration
Please reply ASAP

E.F.

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext.

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:

Please review the document code IIFW dated 12/06/07 in PAIRS for actual claims numbering.

The published claims 8-19 are incorrect and should be re-printed according to the claim listing dated 03/22/06 and the Issue Classification dated 12/05/06. Claims 1-7 and 20-23 are correctly published.

SPE

3745
Art Unit

5-7-08

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,160,085 B2
Inventor(s) : De Roest
Issued : January 9, 2007
For: WIND TURBINE
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.323.

The alleged errors, claims are denied again, per examiner. (See attached paper).

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

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390, ext.124 or ext. 105

Daniel G. Radler
Quarles & Brady, LLP
411 E. Wisconsin Avenue
Milwaukee, WI 53202

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed :

Patent No.: 7,160,085
Patent Issued : January 9, 2007
Inventor(s): Anton Herrius de roest
Title: WIND TURBINE
Docket No.: 930841.00006

Re: Request for Certificate of Correction

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

The alleged errors to the claims, the published claims 8-19 are incorrect and should be re-printed according to the claim listing dated 03/22/06 and the issue classification dated 12/05/06. Claims 1-7 and 2-023 are correctly published.

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

However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

A certificate of correction will issue to correct the remaining error noted in your request.

Eva James
For Mary Diggs
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 125

Quarles & Brady LLP
411 E. Wisconsin Avenue
Suite 2040
Milwaukee WI 53202-4497

ej

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-12-09

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/504186 Patent No.: 7160085

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

Reconsideration

E. Jones
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: _____

Ed Tosh
SPE

3745
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

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

COPY MAILED

APR 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Kamata et al.	:	
Application No. 10/504188	:	
Filing or 371(c) Date: 08/11/2004	:	
Attorney Docket Number:	:	
120741	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment – Reply Timely Filed and Received by the Patent Office", filed February 25, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 11, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on October 12, 2007. A Notice of Abandonment was mailed January 28, 2008.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on October 26, 2007 (Certificate of Mailing dated October 11, 2007). In support of this assertion applicant notes that the reply is retrievable from the Office's Patent Application Information and Retrieval (PAIR) system.

A review of Office records reveal that the Office received, inter alia, an amendment and remarks on October 26, 2007. A review of the amendment and remarks reveals that Applicant included an authorization to charge and fee due to Applicant's deposit account.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The amendment and remarks filed October 26, 2007 reveal that no certificate of mailing under 37 CFR 1.8. As provided in 37 CFR 1.6, the date of receipt is the filing date accorded the amendment and remarks. Applicant's deposit account has been charged the extension of time fee for a two (2) month extension of time.

The application will be referred to Technology Center Art Unit 2146 for processing of the amendment and remarks, and for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Larson & Anderson, LLC
P.O. BOX 4928
DILLON, CO 80435

Mail Date: 04/21/2010

Applicant	: Sridhar G. Iyengar	: DECISION ON REQUEST FOR
Patent Number	: 7601249	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/504,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1370** 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 : Dec. 19, 2008

TO SPE OF : ART UNIT 2872
SUBJECT : Request for Certificate of Correction for Appl. No.:/10/504205 /7161721

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 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: _____

Stephone B. Allen
Supervisory Patent Examiner

Stephone Allen 4/7/09

11 JAN 2005

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Aaron Waxler
Corporate Patent Counsel
Phillips Electronics North America Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
MARRA et al.	:	
Application No.: 10/504,242	:	DECISION ON
PCT No.: PCT/IB03/00271	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 29 January 2003	:	
Priority Date: 13 February 2002	:	
Attorney Docket No.: NL020114	:	
For: METHOD OF MANUFACTURING A POLYMERIC FOIL	:	

This decision is in response to the declaration filed 10 August 2004 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 29 January 2003, applicants filed the above-identified international application which claimed a priority date of 13 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 August 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, 13 August 2004.

On 10 August 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; an assignment; and an executed declaration.

DISCUSSION

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

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

The declaration filed 10 August 2004 is executed by: Johannes Marra; Pierre Cobben; Joanna Baken; and Peter Duine as inventors and a legal representative on behalf of deceased inventor, Gerardus Van Gorkom. The declaration submitted appears to have been

executed by the proper party under 37 CFR 1.42, but fails to identify the person signing the declaration for the deceased co-inventor, Gerardus Van Gorkom. Further, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 10 August 2004 does not include the name, residence, citizenship, and post office address for the legal representative. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

Additionally, the declaration submitted on 10 August 2004 is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with petition includes duplicate sheets of page 2 of 2. It is unclear if the inventors were presented with only page 2 of 2, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

CONCLUSION

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

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

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box

1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

24 MAR 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Aaron Waxler
Corporate Patent Counsel
Phillips Electronics North America Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
MARRA et al.	:	
Application No.: 10/504,242	:	DECISION ON
PCT No.: PCT/IB03/00271	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 29 January 2003	:	
Priority Date: 13 February 2002	:	
Attorney Docket No.: NL020114	:	
For: METHOD OF MANUFACTURING A POLYMERIC FOIL	:	

This decision is in response to applicants' "Renewed Submission under 37 CFR 1.42" filed 14 March 2005. No petition fee is required.

BACKGROUND

On 29 January 2003, applicants filed the above-identified international application which claimed a priority date of 13 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 August 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, 13 August 2004.

On 10 August 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; an assignment; and an executed declaration. In a Decision dated 11 January 2005, applicants' request under 37 CFR 1.42 was dismissed because the declaration was defective under 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

On 14 March 2005, applicants filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

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

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

The declaration filed 14 March 2005 is executed by Henricus Josephus Kunnen as the "legal representative" of Gerardus Van Gorkom 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 29 January 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **14 March 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
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 17 2010

OFFICE OF PETITIONS

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

In re Application of	:	
BRUCE et al.	:	
Application No. 10/504,259	:	ON APPLICATION FOR
Filed: January 31, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. PR/4-32348A	:	

This is in response to the PETITION REGARDING PATENT TERM ADJUSTMENT UNDER C.F.R. §1.705(B) filed December 17, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred sixty-four (664) days, not three hundred ninety-four (394) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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

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

---

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNISON, SCHULTZ & MACDONALD
1727 King Street, Suite 105
Alexandria, VA 22314

COPY MAILED

FEB 15 2008

In re Application of	:	
Bruno Franck *et al.*	:	
Application No. 10/504,277	:	DECISION ON PETITION
Filed: January 10, 2005	:	
Attorney Docket No. 07162	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 31 December 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 03 July 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 04 October 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply to the office action mailed on 03 July 2006, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

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

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 3733 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

17 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

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

In re Application of HRASCHAN et al. Application No.: 10/504,283 PCT No.: PCT/AT03/00059 Int. Filing Date: 26 February 2003 Priority Date: 26 February 2002 Attorney Docket No.: 72893/JPW/KBC For: USE OF ZEOLITHES FOR REDUCING THE PROPORTION OF LACTATES AND AMMONIUM IN HUMAN AND ANIMAL ORGANISMS	DECISION on PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 12 May 2005 in the United States Patent and Trademark Office (USPTO) in response to the 23 March 2005 Notification of Missing Requirements.

BACKGROUND

On 23 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), an English translation of the international application and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration and processing fee under 37 CFR 1.492(f) for filing the English translation later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 12 May 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), and a statement of facts by Jacob Hraschan and Christian Herzog.

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.

Petitioner has satisfied Items (1) and (3).

Although applicant provided the statement of facts of Jacob Hraschan and Christian Herzog including Exhibits 1- 2, Item (2) is not yet satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to Mr. Lelas. The 12 October 2004 letter to Mr. Lelas suggests that the letter was merely to contact the inventor for the above-identified application. A complete copy of the application papers must be provided to the non-signing inventor before it can be concluded that Mr. Lelas is refusing to sign the application papers. It is noted that the mail receipt (Exhibit 2) is not in English and does not provide an indication that the 10 October 2004 letter was received by Mr. Lelas. Additionally, while the statement of facts indicates that the co-inventors made attempts to contact Mr. Lelas, no evidence or details of such diligent efforts were provided. Applicants have not yet shown that Mr. Lelas has received a complete copy of the application papers and has refused to sign.

Should Petitioner be unable to reach or locate Mr. Lelas, Petitioner should follow the procedures set forth in MPEP 409.03(d) INVENTOR CANNOT BE REACHED.

Item (4) has not been satisfied. The declaration filed 12 May 2005 is unacceptable as the declaration submitted identifies the same mailing address for all three inventors. The executed declaration must identify all of the inventors and the citizenship, residency and mailing address for all of the inventors. Since the last known mailing address for Mr. Lelas is not the mailing address listed in the declaration, it is unclear that the address listed is a mailing address for the inventor.

The petition under 37 CFR 1.47(a) is dismissed for the reasons set forth above.

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.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

12 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of HRASCHAN et al. Application No.: 10/504,283 PCT No.: PCT/AT03/00059 Int. Filing Date: 26 February 2003 Priority Date: 26 February 2002 Attorney Docket No.: 72893/JPW/KBC For: USE OF ZEOLITHES FOR REDUCING THE PROPORTION OF LACTATES AND AMMONIUM IN HUMAN AND ANIMAL ORGANISMS	DECISION on RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 21 February 2006 in the United States Patent and Trademark Office (USPTO). Applicant's request for a five month extension of time is granted.

BACKGROUND

On 23 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), an English translation of the international application and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration and processing fee under 37 CFR 1.492(f) for filing the English translation later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 12 May 2005, applicants filed a response to the 905 including an English translation of the application, and a petition under 37 CFR 1.47(a), accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a statement of facts by inventors Jacob Hraschan and Christian Herzog.

On 17 August 2005, a decision dismissing the petition was mailed to applicant. On 21 February 2006, applicant filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

Petitioner satisfied Items (1) and (3). With regard to Item (4), counsel states that the mailing "addresses provided for the inventors is their business address where they customarily receive patent-related mail". Thus, the declaration is acceptable and in compliance with 37 CFR 1.497(a) and (b).

However, Item (2) is not yet satisfied. Applicant provided the statement of facts of Werner Barger, attorney for inventors Jacob Hraschan and Christian Herzog, who attempted to contact Antonio Lelas via email and postal mailings without success. It is apparent that Mr. Lelas' whereabouts are unknown since postal mail has been returned and emails have not been responded to. 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. Here it is apparent that Petitioner was unable to locate the nonsigning inventor so that he did not receive a complete copy of the application papers and is apprised of the application to which the oath or declaration is directed , thereafter refusing to sign the application.

As referenced in the decision mailed on 17 August 2005, MPEP 409.03(d) Proof of Unavailability or Refusal INVENTOR CANNOT BE REACHED states:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> ....The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. *Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding*

> *that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.*

(Emphasis added.)

The details of a search to locate Mr. Lelas (internet search, inquiry at his last known place of employment, postal inquiries for his forwarding address, etc.) should be set forth in a statement of facts by a person having first hand knowledge of the diligent efforts undertaken to locate Mr. Lelas and should accompany any renewed petition under 37 CFR 1.47(a). The petition under 37 CFR 1.47(a) is dismissed for the reasons set forth above.

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.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

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

15 AUG 2006

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

In re Application of HRASCHAN et al. Application No.: 10/504,283 PCT No.: PCT/AT03/00059 Int. Filing Date: 26 February 2003 Priority Date: 26 February 2002 Attorney Docket No.: 72893/JPW/KBC For: USE OF ZEOLITHES FOR REDUCING THE PROPORTION OF LACTATES AND AMMONIUM IN HUMAN AND ANIMAL ORGANISMS	DECISION on RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 14 August 2006 in the United States Patent and Trademark Office (USPTO). Applicant's request for a one month extension of time is granted.

BACKGROUND

On 23 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), an English translation of the international application and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration and processing fee under 37 CFR 1.492(f) for filing the English translation later than thirty months from the priority date were required. The NOTIFICATION set a two-month extendable period for response.

On 12 May 2005, applicants filed a response to the 905 including an English translation of the application, and a petition under 37 CFR 1.47(a), accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a statement of facts by inventors Jacob Hraschan and Christian Herzog.

On 17 August 2005, a decision dismissing the petition was mailed to applicant. On 21 February 2006, applicant filed a renewed petition under 37 CFR 1.47(a), which was dismissed on 12 May 2006.

On 14 August 2006, applicant filed the instant petition along with a declaration executed by the previously non-signing inventor. The renewed petition under 37 CFR 1.47(a) is considered moot as a declaration executed by the previously unavailable inventor has now been submitted and is acceptable under 37 CFR 1.497(a) and (b).

For the above reasons, the renewed petition under 37 CFR 1.47(a) is considered **MOOT**. The declaration executed by the joint inventor and submitted on 14 August 2006 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **14 August 2006**.

Cynthia M. Kratz

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

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 05/03/2010

Applicant	: Shinya Abe	: DECISION ON REQUEST FOR
Patent Number	: 7616552	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/504,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1235** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

02 OCT 2006

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

In re Application of	:
ROTH et al.	:
Application No. 10/504,299	: DECISION ON PETITION
Filed: February 18, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BOEHMER-12	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 18 April 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is DISMISSED.

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

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed 18 April 2006 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed application to the instant application is required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Cynthia M. Kratz at (571) 272-3286.

Boris Milef
Legal Examiner
PCT Legal Office
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

11 APR 2007

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

In re Application of	:
ROTH et al.	: DECISION ON
Application No. 10/504,299	: RENEWED PETITION
Filed: February 18, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BOEHMER-12	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 30 October 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The renewed petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The renewed petition does not satisfy item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." The benefit claim that merely states: "This application is a §371 of PCT/EP03/01575, filed February 17, 2003, which claims the benefit of U.S. Application No. 10/077,600, filed February 15, 2002, now abandoned," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each

nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 5, August 2006, Reference to Prior Application. The amendment filed 30 October 2006 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable..

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed application to the instant application is required.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Cynthia M. Kratz at (571) 272- 3286.

Boris Milef
Legal Examiner
Office of Petitions
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
Roth Johannes et al. :
Application No. 10/504,299 : ON PETITION
Filed: February 18, 2005 :
Attorney Docket No.: BOEHMER-12 :

This is a decision on the petition filed September 5, 2006 to withdraw the holding of abandonment for the above-identified application. The petition is being treated under 37 CFR 1.181.

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

The application was held abandoned on January 19, 2006, for failure to timely submit a timely response to the non-Final Office Action mailed October 18, 2005, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed May 17, 2006.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment, a three month extension of time request and a post card receipt date stamped April 18, 2006 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment and three month extension of time was filed on April 18, 2006. Accordingly, the Notice of Abandonment mailed May 17, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 1641 for appropriate action on the amendment filed April 18, 2006, a copy of which was submitted upon petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

COPY MAILED

SEP 22 2008

OFFICE OF PETITIONS

In re Patent No. 7383059	:	
Issue Date: 06/03/2008	:	
Application No. 10/504323	:	ON PETITION
Filing or 371(c) Date: 08/24/2004	:	
Attorney Docket Number: 040421	:	

This is a decision on the "PETITION UNDER 37 CFR §1.183" filed on July 24, 2008, which is treated as a request under 37 CFR 3.81(b) requesting deletion of a named assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Petitioner asserts that the second named assignee's name was listed in error on the PTOL-85(b) at the time the issue fee was paid.

Upon further review, the request is **granted**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3131. 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.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

MAILED

JUL 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,632,495	:	
Issue Date: December 15, 2009	:	
Application No. 10/504,328	:	DECISION ON PETITION
Filed: March 11, 2005	:	
Attorney Docket No. **9579-92**	:	

This is a decision on the petition filed June 15, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent that is being considered under 37 CFR 1.182.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent 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 Letters Patent was not received; and

3. a copy of the docket record where the non-received Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

Petitioner states in the instant petition that "[w]e do not appear to have the original 'ribbon copy' of the patent . . .". However, petitioner has not provided any evidence mentioned above that is required to establish non-receipt of the original Letters Patent. Therefore, the petition cannot be granted at this time.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Hatta, Yoshihisa	:	
Application No. 10/504,336	:	ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. JP02 0005 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE RD, STE 100 EAST
PO BOX 747
FALLS CHURCH, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Yukawa, Teizo	:	
Application No. 10/504,337	:	ON PETITION
Filed: August 11, 2004	:	
Attorney Docket No. 0941-1713PUS1	:	

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: BIRCH, STEWART, KOLASCH & BIRCH, LLP
PO BOX 747
8110 GATEHOUSE RD, STE 500 EAST
FALLS CHURCH, VA 22040-0747

13 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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

David A. Guerra
933 Olander Way South, Suite 3
South Pasadena, FL 33707

In re Application of	:	
ONG	:	DECISION ON PETITION
Application No.: 10/504,347	:	
PCT No.: PCT/AU03/00198	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 14 February 2003	:	
Priority Date: 14 February 2002	:	
Atty. Docket No.: APO18-04	:	
For: CONNECTOR	:	

The petition to revive under 37 CFR 1.137(b) filed 26 April 2005 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 14 February 2003 under 35 U.S.C. 363 and will be given a date of **26 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.

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

17 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Richard E.L. Henderson
Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of	:	
MAURER, et al.	:	
Application No.: 10/504,357	:	
Filing Date: 12 August 2004	:	DECISION ON PAPERS
Attorney Docket No.: CS-8310/LeA 35,964	:	
For: SUBSTITUTED 4-PYRAZOLYL PYRAZOLINES USED FOR PEST CONTROL	:	UNDER 37 CFR 1.42

This decision is in response to applicant's "Submission of Missing Parts of Application" filed 11 February 2005. The response is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 06 February 2003, applicants filed the international application, which claimed a priority date of 19 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, 19 August 2004.

On 12 August 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and an English translation of the international application.

On 11 February 2004, applicant filed the present response which included a combined declaration and power of attorney which, in addition to the joint inventors, was executed by Angelika Lubos-Erdelen as sole heir to the estate of deceased inventor Dr. Christoph Erdelen.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

An examination of the filed declaration and power of attorney finds that the document lists

the post office, residence and citizenship for both the deceased inventor Dr. Christoph Erdelen and the heir to his estate, Angelika Lubos-Erdelen. As such, the declaration is in compliance with 37 CFR 1.497(a)-(b). Counsel has certified that the signing heir is the sole heir. The submission of the declaration executed by the heir is being interpreted to mean that no legal representative of the estate has been appointed nor is statutorily required to be appointed. If this interpretation is incorrect applicants should contact this office immediately.

In light of the above, it is proper to grant applicant's request at this time.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 06 February 2003 and a date of **11 February 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 30 2007

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS TX 75202

In re Application of	:	
Robert Lance Cook, et al.	:	
Application No. 10/504,361	:	DECISION ON PETITION
Filed: July 14, 2005	:	TO WITHDRAW
Attorney Docket No. 25791.71.09	:	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 17, 2007.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD MATTINGLY
KING & SPALDING, LLP
1100 LOUISIANA STREET
SUITE 4000
HOUSTON, TX 77002

2 4 JAN 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

Todd Mattingly
Haynes and Boone, L.L.P.
901 Main Street, Suite 3100
Dallas, Texas 75202

In re Application of	:	DECISION ON
*COOK et al.	:	
Application No.: 10/504,361	:	PETITION UNDER
Filing Date: 9 January 2003	:	
Attorney's Docket No.: 25791.71.09	:	
For: MONO-DIAMETER WELLBORE CASING	:	37 CFR 1.78(a)(3)

This is in response to applicants' communication "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED BENEFIT CLAIM UNDER 35 U.S.C. 120, 121, OR 365(c)" filed 10 September 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed patent applications set forth in the amendment filed with the petition.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section 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)(2)(ii) of this section and and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy items (1) and (3) above.

Regarding requirment (1), applicant states that the present application is a continuation-in-part of U.S. utility patent application serial no. 11/644,101..., which was the national stage of PCT application serial number PCT/US02/04353 but after reviewing utility application 11/644,101 does not appear to have been a national stage of international application PCT/US02/04353. In addition, provisional patent application serial no. 60/270,007 is not a continuation-in-part of U.S. utility application serial number 09/454,139 as stated in paragraph [0002] of the specification. Applicant must provide the proper relationship between this application and any prior-filed applications.

In addition, the subject matter of the later amended references to utility patent application no. 11/644,101 and PCT/US02/04353 may not be incorporated by reference subsequent to filing the above application.

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

Regarding requirement (2), the surcharge has been provided.

Regarding requirement (3), the proper statement has not been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

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

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

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

By fax: (571) 272-3276
ATTN: Office of PCT Legal Administration

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

Boris Milef
Legal Examiner
PCT Legal Administrative Office

29 NOV 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of SEDLMAIER	:	
U.S. Application No.: 10/504,398	:	
PCT Application No.: PCT/DE03/00435	:	
Int. Filing Date: 13 February 2003	:	
Priority Date Claimed: 13 February 2002	:	DECISION
Attorney Docket No.: 14219-064US1	:	
For: CERAMIC MULTILAYER COMPONENT,	:	
METHOD FOR THE PRODUCTION	:	
THEREOF AND RETAINING DEVICE	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.47(b) to Proceed Without Signature of the Sole Inventor" filed 04 October 2005.

BACKGROUND

On 13 February 2003, applicant filed international application PCT/DE03/00435, which claimed priority of an earlier Germany application filed 13 February 2002. 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 13 August 2004.

On 11 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 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 indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 04 October 2005, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

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

With regard to item (1) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 06-1050 as authorized by applicant.

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

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, the petition states that the sole inventor Peter Sedlmaier cannot be located after diligent effort. However, as evidenced from the registered mail receipt, the last known address for Mr. Sedlmaier appears to be valid. Furthermore, telephone calls to the same address revealed that Mr. Sedlmaier was unavailable to talk, not that Mr. Sedlmaier did not live at the address. Thus, it would not be reasonable to conclude that Mr. Sedlmaier cannot be found.

Additionally, it would not appropriate to conclude at the present time that Mr. Sedlmaier refuses to sign the application papers. In particular, although several letters were purportedly sent to Mr. Sedlmaier, petitioner has submitted documentary evidence of only one letter having been successfully delivered to Mr. Sedlmaier's last known address. In addition, although the affidavit of Alexander Fuchs states that Dr. Fuchs has firsthand knowledge of attempts to reach Mr. Sedlmaier, Dr. Fuchs' signature does not appear on any letter sent to Mr. Sedlmaier, and the petition is not accompanied by the affidavits of the persons who actually tried to reach Mr. Sedlmaier by telephone.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, the declaration filed with the petition fails to state the citizenship of the inventor as required by 37 CFR 1.497. Furthermore, ownership of the application by Epcos AG has not been sufficiently established by the submission of documentary evidence of a chain of title from Peter Sedlmaier to Epcos AG (see item (5) discussion below).

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, while the claiming letter signed by Mr. Sedlmaier suggests that he has agreed in writing to assign an invention to Epcos AG (see Exhibit B), it is not clear from the English translation that the present invention in particular has been identified in the letter.

With regard to item (6) above, petitioner has made an adequate showing regarding the prevention of irreparable damage.

CONCLUSION

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

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

include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." Extensions of time are available under 37 CFR 1.136.

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

OIPE JC174
FEB 2 3 2005
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/83 (05-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/504,424
Filing Date	August 13, 2004
First Named Inventor	Johnathan A. Napier
Art Unit	1632
Examiner Name	Not yet assigned
Attorney Docket Number	532622008000

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

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **IACR-Rothamsted**

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

CORRESPONDENCE ADDRESS

[ ] Customer Number [ ] → [ ]

OR

[X] Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

[X] This request is made on behalf of myself and
- [ ] all the attorneys/agents of record,
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [X] the attorneys/agents associated with Customer Number 25227

This request is enclosed in **triplicate** (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	February 23, 2005

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

APPROVED 3-21-05

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: February 23, 2005 Signature: _____ (Chimin Taylor)

va-94473

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Application of
Cresswell
Application No. 10/504,427
Effective Date: August 13, 2004
Docket No.: 449122076400

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 23, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed February 23, 2005. The Office communication set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed July 12, 2006.

Petitioner asserts non-receipt of the Office communication, and, further argues that the Office communication was mailed to an incorrect correspondence address.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt 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 non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the Office communication was not received.

A review of the PALM database reveals a correspondence address associated with Customer Number 43148. A review of the Application Data Sheet filed in this application reveals that the correct correspondence address is that associated with Customer Number 25227. The error in customer number has since been corrected.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Office of Initial Patent Examination for re-mailing of the final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

0 7 OCT 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Lerner Greenberg Stemer, LLP
P.O. Box 2480
Hollywood, FL 33022-2480

In re Application of	:	
CRESSWELL, et al.	:	DECISION ON PETITION
Serial No.: 10/504,427	:	
PCT No.: PCT/DE02/00538	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 14 February 2002	:	
Priority Date: None	:	
Atty Docket No.: 2002P01073	:	
For: METHOD FOR DETERMINING THE	:	
ELECTRICAL RESISTANCE OF AN	:	
ELECTRICAL SUPPLY LEAD TO SENSOR	:	
ELEMENTS....A SENSOR ARRANGEMENT	:	

This decision is in response to applicant's petition under 37 CFR 1.47(a) filed 02 September 2008 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Justin Cresswell.

BACKGROUND

On 19 March 2007, applicant was mailed a decision granting applicant's petition to withdraw the holding of abandonment in the present application.

On 01 July 2008, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 02 September 2008, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

As to item (2), it is unclear from the petition how applicant ascertained that Mr. Cresswell's last known address was Lincoln Park, Michigan. Multiple e-mails indicate that he was employed in "Huntsville" presumably Huntsville, Alabama. The silence of an inventor cannot be construed asa refusal absent a showing that the mailing of a complete set of application papers was made to a valid address. The Manual of Patent Examination Procedure (MPEP) section 409.03(d) states that when proceeding under the standard of diligent effort:

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.

Before the petition can be granted applicant must provide the USPTO with evidence that searches were conducted to ascertain a current mailing address for Mr. Cresswell. If a new address is discovered a complete set of papers should be mailed. Alternatively, applicant should provide the search results showing that the last known address presently provided is correct.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

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

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

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

1 6 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

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

In re Application of	:	
CRESSWELL, et al.	:	
Serial No.: 10/504,427	:	
PCT No.: PCT/DE02/00538	:	DECISION ON PETITION
Int. Filing Date: 14 February 2002	:	
Priority Date: None	:	UNDER 37 CFR 1.47(a)
Atty Docket No.: 2002P01073	:	
For: METHOD FOR DETERMINING THE	:	
ELECTRICAL RESISTANCE OF AN	:	
ELECTRICAL SUPPLY LEAD TO SENSOR	:	
ELEMENTS...A SENSOR ARRANGEMENT	:	

This decision is in response to applicant's "SUBMISSION OF SIGNED DECLARATION" filed 04 November 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 October 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without an executed declaration of inventor Justin Cresswell. Applicant was accorded two months to a request for reconsideration including either: 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by the inventor or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(a).

On 04 November 2008, applicant filed the response discussed herein.

DISCUSSION

The renewed petition under 37 CFR 1.47(a) is moot since applicant has presently filed declarations which are compliant with 37 CFR 1.497(a), including a declaration which has been executed by the previous non-signing inventor, Justin Cresswell.

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 14 February 2002 and will be given a

date of **04 November 2008** 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

JAN 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Rao et al.	:	
Application No. 10/504,435	:	ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 20269/1201778-US1	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

24 JUN 2005

United States Patent and Trademark Office

#6

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

Perkins Coie LLP
Patent-SEA
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of	:	
Doran et al.	:	
Application No.: 10/504,436	:	DECISION
PCT No.: PCT/US03/04603	:	
Int. Filing Date: 14 February 2003	:	ON
Priority Date: 15 February 2002	:	
Attorney Docket No.: 213828025US5	:	PETITION
For: Methods And Systems For Exchanging And/Or	:	
Transferring Various Forms Of Value	:	

The petition to revive under 37 CFR 1.137(b) filed 13 April 2005 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 until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that petitioner paid a filing fee in the amount of $790.00 on 13 April 2005. That payment was accompanied by a deposit account authorization. The $790.00 payment is being applied to the $300.00 basic national fee, the $100.00 national stage search fee and the $200.00 examination fee, with the $190.00 overpayment being credited to counsel's Deposit Account No. 50-0665. The required petition fee of $1500.00 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. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **13 April 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Michael Doran	: DECISION ON REQUEST FOR
Patent Number	: 7653599	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/504,436	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

23 JUN 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen E. Arnett
Perkins Coie LLP
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of	:	
DORAN, et al.	:	
Application No.: 10/504,437	:	
PCT No.: PCT/US03/04601	:	DECISION ON PETITION
Int. Filing Date: 14 February 2003	:	
Priority Date: 15 February 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 213828025US	:	
For: METHODS AND SYSTEMS FOR EXCHANGING	:	
AND/OR TRANSFERRING VARIOUS FORMS	:	
OF VALUE	:	

The petition to revive under 37 CFR 1.137(b) filed 13 April 2005 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 14 February 2003 under 35 U.S.C. 363 and will be given a date of **13 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.

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

10 JUN 200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen E. Arnett
Perkins Coie LLP
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of DORAN et al	:	
U.S. Application No.: 10/504,438	:	
PCT Application No.: PCT/US03/04600	:	
Int. Filing Date: 14 February 2003	:	DECISION
Priority Date Claimed: 15 February 2002	:	
Attorney Docket No.: 213828025US4	:	
For: METHODS AND SYSTEMS FOR	:	
EXCHANGING AND/OR TRANSFERRING	:	
VARIOUS FORMS OF VALUE	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 12 April 2005.

BACKGROUND

On 14 February 2003, applicant filed international application PCT/US03/04600, which claimed priority of an earlier United States application filed 15 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 15 August 2004.

On 12 August 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 01 April 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 the application is abandoned as to the United States for failure to timely pay the basic national fee.

On 12 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), although the petition states that the "Filing Fee" is enclosed, the USPTO has no record of the basic national fee having been submitted.[1]

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 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. 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

[1] It is further noted that although the petition states that a declaration, power of attorney, and return postcard are included with the petition, a review of the application file reveals that no declaration or power of attorney is present. A properly itemized and stamped return postcard along with copies of the missing documents and fee transmittal would serve as *prima facie* evidence of submission of their submittal.

19 JUL 20[illegible]
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen E. Arnett
Perkins Coie LLP
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of DORAN et al	:	
U.S. Application No.: 10/504,438	:	
PCT Application No.: PCT/US03/04600	:	
Int. Filing Date: 14 February 2003	:	DECISION
Priority Date Claimed: 15 February 2002	:	
Attorney Docket No.: 213828025US4	:	
For: METHODS AND SYSTEMS FOR	:	
EXCHANGING AND/OR TRANSFERRING	:	
VARIOUS FORMS OF VALUE	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.137(b)" filed 01 July 2005.

BACKGROUND

On 14 February 2003, applicant filed international application PCT/US03/04600, which claimed priority of an earlier United States application filed 15 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 15 August 2004.

On 12 August 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 01 April 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 the application is abandoned as to the United States for failure to timely pay the basic national fee.

On 12 April 2005, applicant filed a petition under 37 CFR 1.137(b).

On 10 June 2005, this Office mailed a decision dismissing the 12 April 2005 petition.

On 01 July 2005, applicant filed the present renewed petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

Petitioner has previously satisfied items (2), (3), and (4) above.

With regard to item (1), the evidence of record is sufficient to establish that the filing fee and declaration were originally filed on 12 April 2005. Specifically, the copy of the return postcard, which includes the filing fee and declaration in its itemized contents and which bears a USPTO date stamp of 12 April 2005, serves as *prima facie* evidence that the filing fee and declaration were received by the USPTO on 12 April 2005.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 14 February 2003, and a date under 35 U.S.C. 371(c) of 12 April 2005.

The application is being forwarded to the DO/EO/US for 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
www.uspto.gov

GUNNAR G. LEINBERG
NIXON PEABODY
CLINTON SQUARE
PO BOX 31051
ROCHESTER, NY 14603

COPY MAILED
MAR 04 2010

In re Application of
Steven Van Poucke
Application No. 10/504,444
Filed: December 28, 2005
Attorney Docket No. 32661/100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 28, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Nixon Peabody has been revoked by the applicant of the patent application on January 21, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: IDEAL SNACKS CORPORATION
89 MILL STREET
LIBERTY, NY 12754

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

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 06/03/2010

Applicant	: Rajner Walter	: DECISION ON REQUEST FOR
Patent Number	: 7628838	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/504,461	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **967** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Maurice Bourlion	: DECISION ON REQUEST FOR
Patent Number	: 7580743	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/504,462	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

23 SEP 2005

United States Patent and Trademark Office

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

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

In re Application of	:	
Maric	:	
Application No.: 10/504,466	:	
PCT No.: PCT/AU02/00147	:	
Int. Filing Date: 13 February 2002	:	DECISION
Priority Date: 27 July 2001	:	
Attorney Docket No.: Q83020	:	
For: An Improved Food Product	:	

This is in response to the "Petition To Withdraw Holding Of Abandonment Under MPEP Section 7.11.03(c)(I)" filed on 02 May 2005.

BACKGROUND

This international application was filed on 13 February 2002 and claimed an earliest priority date of 27 July 2001. The priority claim was subsequently withdrawn, on 22 January 2004. The United States was designated. The International Bureau transmitted a copy of the published international application to the USPTO on 13 February 2003. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 13 August 2004. On 12 August 2004, applicants filed *inter alia* the basic national fee.

On 04 April 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the U.S. national stage because "Applicant has failed to provide the Copy of the International Application by 30 months (37 CFR 1.495(b)(1))."

DISCUSSION

Counsel "petitions for withdrawal of the holding of abandonment and a new Office Action," and presents a copy of a return postcard receipt as evidence of filing of a copy of the international application. Applicant is advised that a copy of the published international application was transmitted to the USPTO by the International Bureau on 13 February 2003, and that inspection of the application file reveals that the copy of the international application filed by applicant on 12 August 2004 is present. Therefore, the Notification of Abandonment mailed on 04 April 2005 was inappropriate, and it is hereby **VACATED**.

CONCLUSION

The petition 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 **12 November 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

COPY MAILED
FEB 04 2010

In re Application of	:	
Masanori Kawashima	:	
Application No. 10/504,468	:	DECISION GRANTING PETITION
Filed: August 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03500.017143.	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 4, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2445 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104-3800

MAILED
JUN 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Masanori Kawashima	:	
Application No.: 10/504,468	:	ON PETITION
Filed: August 12, 2004	:	
Attorney Docket No.: 03500.017143.	:	

This is a decision on the petition, filed June 22, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 13, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2445 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

27 FEB 2006

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jay S Cinamon
Abelman Frayne & Schwab
150 East 42nd Street
New York NY 10017

In re Application of	:	
CYZS et al.	:	
Application No.: 10/504,469	:	DECISION
PCT No.: PCT/IL03/00108	:	
Int. Filing Date: 12 February 2003	:	
Priority Date: 13 February 2002	:	
Attorney Docket No.: 206,650	:	
For: NEAR-FIELD SPATIAL MULTIPLEXING	:	

This is a decision on applicants' "PETITION UNDER 37 C.F.R. 1.47(b) REFUSAL OF INVENTOR TO SIGN DECLARATION", which has properly been treated as a petition under 37 CFR 1.47(a), filed 19 September 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 February 2003, applicants filed international application PCT/IL03/00108, which designated the United States and claimed a priority date of 13 February 2002. A copy of the international application was communicated from the International Bureau to the USPTO 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 12 August 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 16 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 19 September 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 petition/fee for a five-month extension of time, a copy of an assignment, a declaration of facts by Merav Nachmias, a copy of a letter from Merav Nachmias to Yonatan Manor and an English translation thereof, a copy of a letter from Merav Nachmias to Tamir Friedrich and an English translation thereof, and a copy of two mailing labels.

DISCUSSION

Although the instant petition is entitled by applicants as a petition under 37 CFR 1.47(b), it is treated as a petition under 37 CFR 1.47(a) since the instant situation is one where several of the joint inventors refuse to join in an application or cannot be found or reached after diligent effort rather than a situation where all of the inventors refuse to execute an application or cannot be found or reached after diligent effort.

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 is $200 rather than $130. The balance of $70 has been charged to Deposit Account 01-0035.

Items (2) and (3) have also been met.

Item (4) has not been met. The declaration of inventors filed 19 September 2005 is not in compliance with 37 CFR 1.497(a)-(b). The citizenship is not indicated for three of the four listed inventors. Also, page 1 of the declaration appears to be an original sheet while page 2 appears to have been transmitted by facsimile. This suggests that the first page of the declaration was not associated with the second page at the time of execution, thus rendering the execution improper.

CONCLUSION

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

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

01 AUG 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

Jay S Cinnamon
Abelman Frayne & Schwab
150 East 42nd Street
New York NY 10017

In re Application of	:	
CYZS et al.	:	
Application No.: 10/504,469	:	DECISION
PCT No.: PCT/IL03/00108	:	
Int. Filing Date: 12 February 2003	:	
Priority Date: 13 February 2002	:	
Attorney Docket No.: 206,650	:	
For: NEAR-FIELD SPATIAL MULTIPLEXING	:	

This is a decision on applicants' "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed 17 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 February 2003, applicants filed international application PCT/IL03/00108, which designated the United States and claimed a priority date of 13 February 2002. A copy of the international application was communicated from the International Bureau to the USPTO 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 12 August 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 16 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 19 September 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 petition/fee for a five-month extension of time, a copy of an assignment, a declaration of facts by Merav

Nachmias, a copy of a letter from Merav Nachmias to Yonatan Manor and an English translation thereof, a copy of a letter from Merav Nachmias to Tamir Friedrich and an English translation thereof, and a copy of two mailing labels.

On 27 February 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, the declaration of inventors did not include the citizenship of three of the four listed inventors.

On 17 April 2006, applicants filed the instant "RENEWED PETITION UNDER 37 CFR 1.47(a)" which included a declaration of inventors.

DISCUSSION

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

As noted in the decision mailed 27 February 2006, items (1)-(3) have been met.

Item (4) has now been met as well. The declaration of inventors filed 17 April 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to 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 **17 April 2006**.

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

Mail Date: 04/20/2010

Applicant	: Dietmar Schafer	: DECISION ON REQUEST FOR
Patent Number	: 7637534	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/504,473	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Danaher Product ID
1500 Mittel Blvd
Wood Dale IL 60191

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Horsnell, et al.
Application No. 10/504,474
Filed: May 12, 2005
Attorney Docket No. D-711
For: SOLENOID VALVE

ON PETITION

This is a decision on the petition, filed March 16, 2010, 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 timely submit a reply within three (3) months of the mailing of the September 1, 2009 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on December 2, 2009. A Notice of Abandonment was mailed on March 10, 2010.

Applicants have submitted an amendment and two terminal disclaimers and required fees ($280.00) in reply to the September 1, 2009 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 1, 2009 non-final Office action, and the $1,620.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2853 for consideration of the amendment and terminal disclaimers file don March 16, 2010.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

24 JAN 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

In re Application of SIIKALUOMA et al	:	
U.S. Application No.: 10/504,478	:	
PCT Application No.: PCT/SE03/00218	:	
Int. Filing Date: 10 February 2003	:	DECISION
Priority Date Claimed: 12 February 2002	:	
Attorney Docket No.: 1506-1076	:	
For: DEVICE AND METHOD FOR DETECTION/	:	
INDICATION OF LIQUID LEAKAGE	:	

This is in response to applicant's "Response to Notification of Missing Requirements" filed 11 January 2005, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 10 February 2003, applicant filed international application PCT/SE03/00218, which claimed priority of an earlier Sweden application filed 12 February 2002. 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 12 August 2004.

On 12 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 30 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 11 January 2005, applicant filed a declaration along with the present request for status under 37 CFR 1.42.

DISCUSSION

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

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 11 January 2005 does not state the mailing address of the legal representative as required by 37 CFR 1.497(b)(2). This requirement cannot be satisfied by supplying the missing information on an application data sheet.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

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 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

In re Application of SIIKALUOMA et al	:	
U.S. Application No.: 10/504,478	:	
PCT Application No.: PCT/SE03/00218	:	
Int. Filing Date: 10 February 2003	:	DECISION
Priority Date Claimed: 12 February 2002	:	
Attorney Docket No.: 1506-1076	:	
For: DEVICE AND METHOD FOR DETECTION/	:	
INDICATION OF LIQUID LEAKAGE	:	

This is in response to applicant's "Renewed Request for Status Under 37 CFR 1.42" filed 24 March 2005.

BACKGROUND

On 10 February 2003, applicant filed international application PCT/SE03/00218, which claimed priority of an earlier Sweden application filed 12 February 2002. 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 12 August 2004.

On 12 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 30 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 11 January 2005, applicant filed a declaration along with a request for status under 37 CFR 1.42.

On 24 January 2005, this Office mailed a decision dismissing the 11 January 2005 request for status.

On 24 March 2005, applicant filed the present renewed request for status under 37 CFR 1.42 along with a newly executed declaration.

DISCUSSION

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

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 24 March 2005 is in compliance with 37 CFR 1.42 and 37 CFR 1.497.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 10 February 2003, and a date under 35 U.S.C. 371(c) of 24 March 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

19 APR 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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

The Firm of Karl F. Ross P.C.
5676 Riverdale Ave. Box 900
Riverdale (Bronx), NY 10471

In re Application of	:	
ALBESANO et al	:	DECISION ON
Application No.: 10/504,491	:	
PCT No.: PCT/EP03/01361	:	
Int. Filing Date: 12 February 2003	:	PETITION UNDER
Priority Date: 28 February 2002	:	
Attorney Docket No.: 23015	:	
For: METHOD FOR ACCELERATING ...	:	37 CFR 1.181
RECOGNITION DEVICE	:	

This decision is in response to the "COMMUNICATION" received 19 January 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 10 August 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, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 30 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date. The notice also indicated that the items above must be submitted within two (2) months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 30 December 2004, applicants submitted on 19 January 2005 the instant petition stating the declaration was timely submitted since it was filed with the International Application as evidence by the Notification Relating To Declaration Made Under PCT Rule 4.17 (Form/PCT/IB/371) sent by the IB.

DISCUSSION

A review of the file reveals that the USPTO has received the executed Declaration submitted under PCT Rule 4.17.

Accordingly, the "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 30 December 2004 was in error.

DECISION

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

The "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 30 December 2004, is **VACATED** with the mailing of this decision.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **10 August 2004**.

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

19 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of MIZUNO et al	:	
U.S. Application No.: 10/504,508	:	
PCT Application No.: PCT/JP03/01510	:	
Int. Filing Date: 13 February 2003	:	DECISION
Priority Date Claimed: 14 February 2002	:	
Attorney Docket No.: OMY-0037	:	
For: CONTAINER FOR SUPPLYING MOLTEN	:	
METAL AND SAFETY DEVICE	:	

This is in response to applicant's "Petition Under 35 C.F.R. §1.47 to Accept Declaration When Inventor Refuses to Join in Application" filed 15 June 2005.

BACKGROUND

On 13 February 2003, applicant filed international application PCT/JP03/01510, which claimed priority of an earlier Japan application filed 14 February 2002. 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 14 August 2004.

On 13 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 15 February 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 15 June 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. However, the declaration cannot be accepted at the present time because it lists Kazunori Suzuki as an inventor. Kazunori Suzuki is not listed as an inventor in the published international application, and the DO/EO/US has not received a Notification of the Recording of a Change (From PCT/IB/306) which indicates that Kazunori Suzuki is an inventor for the present application.

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 Tsuyoshi Abe refuses to join in the application. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Abe for signature (see affidavit of Junichi Omori, ¶4). Additionally, petitioner has sufficiently demonstrated that Abe refuses to cooperate. Specifically, Abe did not respond to various attempts to secure the signature of Abe via postal mail, telephone, and electronic mail, even though the communications set forth a deadline for response. Thus, it can be concluded with reasonable certainty that Abe refuses to join in the application.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 18-0013 as authorized by applicant.

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

CONCLUSION

Because petitioner has failed to satisfy item (1) 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

11 OCT 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of MIZUNO et al	:	
U.S. Application No.: 10/504,508	:	
PCT Application No.: PCT/JP03/01510	:	
Int. Filing Date: 13 February 2003	:	DECISION
Priority Date Claimed: 14 February 2002	:	
Attorney Docket No.: OMY-0037	:	
For: CONTAINER FOR SUPPLYING MOLTEN	:	
METAL AND SAFETY DEVICE	:	

This is in response to applicant's "Renewed Petition Under 35 C.F.R. §1.47(a) " filed 19 September 2005.

BACKGROUND

On 13 February 2003, applicant filed international application PCT/JP03/01510, which claimed priority of an earlier Japan application filed 14 February 2002. 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 14 August 2004.

On 13 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 15 February 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 15 June 2005, applicant filed a petition under 37 CFR 1.47(a).

On 19 July 2005, this Office mailed a decision dismissing the 15 June 2005 petition.

On 19 September 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 (2), (3), and (4) above.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 13 February 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 June 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 0 1 2006

OFFICE OF PETITIONS

John James McGlew
McGlew & Tuttle, PC
P.O. Box 9227
Scarborough Station
Scarborough, NY 10510-9227

In re Application of	:	
Hironori Wakayama	:	
Application No. 10/504,516	:	DECISION ON PETITION
Filed: February 1, 2005	:	TO WITHDRAW
Attorney Docket No. 71505	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 13, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **our Japanese agent no longer works for an intermediary.....** , do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Hironori Wakayama
1555-3, Hongou, Kita-ku
Saltama-shi, Saitama
Japan

UNITED STATES PATENT AND TRADEMARK OFFICE

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

June 23, 2008

Marc S. Weiner
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P. O. Box 747
Falls Church, VA 22040-0747

Patent No.: 7,256,110 B2
Application No.: 10/504,527
Inventor(s): Shinichi Sasaki, et al.
Issued: August 14, 2007
Title: **CRYSTAL MANUFACTURING METHOD**

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.

The alleged errors mentioned in your request are editing changes made in accordance with the style of the Invention Patent Manual.

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

Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 305-8309 or (703) 308-9390 ext 113
vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 26 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Hori, et al.	:	
Application No. 10/504,529	:	ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. 1188-0120PUS1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 1, 2006, and the petition to revive under 37 CFR 1.137(b), filed June 11, 2006.

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

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed March 9, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on June 10, 2006. A Notice of Abandonment was mailed on November 24, 2006.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a USPTO date stamped postcard receipt dated June 1, 2006, and itemizing an amendment.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

Given the basis for granting this petition under 37 CFR 1.181, consideration of the petition under 37 CFR 1.137(b) was unnecessary. Accordingly, the $1,500 petition fee submitted on June 11, 2007, has been refunded to Deposit Account No. 02-2448.

The matter is being forwarded to Group Art Unit 1711 for consideration of the amendment filed June 1, 2006 (copy supplied with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 07/14/2010

Applicant	: Johann Baumgartner	: DECISION ON REQUEST FOR
Patent Number	: 7641025	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/504,533	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **913** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 13 2006

OFFICE OF PETITIONS

In re Application of
Kawakami et al.
Application No. 10/504,535
International Filing Date: February 14, 2003
For: TRANSPOSON TRANSFER FACTOR FUNCTIONED IN MAMMALS
Attorney Docket No: 2144.0250000/RWE/RAS
Pub. No.: US 2005/0177890 A1
Pub. Date: August 11, 2005

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

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes a material mistake, as Tetsuo Noda one of the inventors is omitted on the front page.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1] The instant request does not identify a material mistake in the publication made by the office.

The error in the omission of Tetsuo Noda on the front page of the publication is an Office error, but it is not a material error under 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The 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] 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).

1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta (703) 308-8122 (voice).

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

16 MAY 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111

In re Application of KERMANI et al	:	
U.S. Application No.: 10/504,568	:	
PCT Application No.: PCT/US03/04570	:	
Int. Filing Date: 14 February 2003	:	DECISION
Priority Date Claimed: 14 February 2002	:	
Attorney Docket No.: A-67616-6/RMS/DCF	:	
(469249-00418)	:	
For: AUTOMATED INFORMATION	:	
PROCESSING IN RANDOMLY ORDERED	:	
ARRAYS	:	

This is in response to applicant's "Petition to File Declarations on Behalf of Nonsigning Inventors who Refuse to Sign or Cannot Be Reached Under 37 CFR 1.47(A)" filed 06 May 2004.

BACKGROUND

On 14 February 2003, applicant filed international application PCT/US03/04570, which claimed priority of an earlier United States application filed 14 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 14 August 2004.

On 13 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 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 indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 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 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.
>
> * * *
>
> 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 applicant has been unable to obtain the signature of joint inventor Juergen Haas. The affidavit of Jerry Hefner indicates that electronic mail messages and a letter were successfully delivered to Hass' last known addresses (see ¶¶7,8,13 of Hefner's affidavit). Thus, it would not be reasonable to conclude at the present time that Hass cannot be found.

Furthermore, the petition does not contain sufficient evidence of Hass' refusal to sign. Petitioner has not demonstrated that a bona fide attempt was made to present a copy of the complete application papers (including specification, claims, drawings, and oath/declaration) to Haas for signature. Although the electronic mail messages appear to have possibly contained files related to the present application, the petition does not contain an affidavit from the person with firsthand knowledge of the content of the messages. Moreover, the letter mailed to Hass' last known address does not appear to have contained the specification, claims, and drawings. In addition, the letter affords Haas an unreasonably short time period for response and does not indicate that a failure to respond by the requested date would be treated as a refusal to sign. Thus, it would not be reasonable to conclude at the present time that Haas refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

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

CONCLUSION

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

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

02 AUG 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111

In re Application of KERMANI et al	:	
U.S. Application No.: 10/504,568	:	
PCT Application No.: PCT/US03/04570	:	
Int. Filing Date: 14 February 2003	:	DECISION
Priority Date Claimed: 14 February 2002	:	
Attorney Docket No.: A-67616-6/RMS/DCF	:	
(469249-00418)	:	
For: AUTOMATED INFORMATION	:	
PROCESSING IN RANDOMLY ORDERED	:	
ARRAYS	:	

This is in response to applicant's "Request for Reconsideration of Petition Under 37 CFR 1.47(A)" filed 20 July 2005.

BACKGROUND

On 14 February 2003, applicant filed international application PCT/US03/04570, which claimed priority of an earlier United States application filed 14 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 14 August 2004.

On 13 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 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 indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 16 May 2005, this Office mailed a decision dismissing the 06 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.

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 joint inventor Juergen Haas refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Haas for signature (see 15 July 2005 affidavit of Jerry Hefner, ¶11). Furthermore, the petition contains sufficient evidence of Hass' refusal to sign. Specifically, Haas failed to respond to repeated attempts to obtain his signature, including a letter which stated that a failure to respond would be treated as refusal to cooperate (see Hefner's 15 July 2005 affidavit, ¶¶ 6, 9, and 11). Thus, it would be reasonable to conclude that Haas 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 14 February 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 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

Juergen Haas
13438 Russet Leaf Lane
San Diego, CA 92129

In re Application of KERMANI et al
U.S. Application No.: 10/504,568
PCT Application No.: PCT/US03/04570
Int. Filing Date: 14 February 2003
Priority Date Claimed: 14 February 2002
For: AUTOMATED INFORMATION PROCESSING
IN RANDOMLY ORDERED ARRAYS

Dear Juergen Haas:

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

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
4 EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO, CA 94111
Attorney Docket No.: A-67616-6/RMS/DCF
(469249-00418)

24 JAN 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998

In re Application of	:	
CHEN, Xingbi	:	
U.S. Application No.: 10/504,575	:	
PCT No.: PCT/CN02/00674	:	**DECISION ON**
Int. Filing Date: 24 September 2002	:	**PETITION FOR REVIVAL**
Priority Date: 21 November 2001	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 37137-206119	:	
For: SEMICONDUCTOR DEVICES	:	

Applicant's "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 13 August 2004 is hereby **GRANTED** as follows:

The petition fee of $665.00 has been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the 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. 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 24 September 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 13 August 2004.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Application of
Nathalie De Greeftrial et al.
Application No. 10/504,592
Filed: November 30, 2004
Attorney Docket No. **BJS-4411-8**

DECISION ON PETITION
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 August 23, 2009.

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 request cannot be approved because the address for neither the first named inventor nor the assignee of record was not provided in the request. The Office will only accept changes to the most current address information provided for the assignee of the entire interest that properly became of record under 37 CFR 3.71 or, the most current address of the first named inventor.

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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Claire Queguiner et al.	:	
Application No. 10/504,593	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. **BJS-4411-7**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 23, 2009.

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 request cannot be approved because the address for neither the first named inventor nor the assignee of record was not provided in the request. The Office will only accept changes to the most current address information provided for the assignee of the entire interest that properly became of record under 37 CFR 3.71 or, the most current address of the first named inventor.

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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 14 2008

OFFICE OF PETITIONS

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

In re Application of

CARROLL, Miles et al.
Application No. 10/504,602
Filed: August 12, 2004
Attorney Docket No. **021911.001700US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 24, 2008.

The request is **APPROVED**.

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

The request was signed by Karen B. Dow on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MILES CARROLL**
c/o OXFORD BIOMEDICA (UK) LIMITED
MEDAWAR CENTRE, ROBERT ROBINSON AVENUE
THE OXFORD SCIENCE PARK
OXFORD, UNITED KINGDOM
OX4 4GA

cc: **MARSHALL, GERSTEIN & BORUN LLP**
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

22 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

George W. Wasson
3123 Indian Way
Lafayette, CA 94549

In re Application of BENESI et al	:	
U.S. Application No.: 10/504,608	:	
PCT Application No.: PCT/US03/04435	:	DECISION
Int. Filing Date: 13 February 2003	:	
Priority Date Claimed: 14 February 2002	:	
Attorney Docket No.: SCB-03-2-PCT-US	:	
For: 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 06 May 2005.

BACKGROUND

On 13 February 2003, applicant filed international application PCT/US03/04435, which claimed priority of an earlier United States application filed 14 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 14 August 2004.

On 13 August 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 April 2005, 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 06 May 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

The evidence of record is sufficient to establish that the petition was originally filed on 06 May 2005. Specifically, the copy of the return postcard, which includes the petition in its

itemized contents and which bears a USPTO date stamp of 06 May 2005, serves as *prima facie* evidence that the petition was received by the USPTO on 06 May 2005.

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 13 February 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

COPY MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	
Application No. 10/504,609	:	ON PETITION
Filed: August 19, 2005	:	
Attorney Docket No. MUI-0009	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 1793 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

12 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHIFF HARDIN, LLP
Patent Department
6600 Sears Tower
Chicago, IL 60606-6473

In re Application of LEIDL, Anton *et al* U.S. Application No.: 10/504,625 PCT No.: PCT/DE03/00363 Int. Filing Date: 07 February 2003 Priority Date: 15 February 2002 Attorney Docket No.: P040291 For: ELECTRODE STRUCTURE FOR ELECTRO-ACOUSTIC COMPONENT AND METHOD FOR PRODUCING SAID STRUCTURE	:	**DECISION**

This decision is in response to applicants' "Petition Under 37 CFR 1.47(a) of Unavailable Inventor" filed with the United States Designated/Elected Office (DO/EO/US) on 25 May 2005.

BACKGROUND

On 21 March 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 $130.00 surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 25 May 2005, applicants filed the instant petition which was accompanied by, *inter alia*, the surcharge fee; a declaration signed by three of the four joint inventors; and authorization to charge any required fees to Deposit Account No. 50-1519.

DISCUSSION

In response to the Form PCT/DO/EO/905, applicants filed the petition under 37 CFR 1.47(a) claiming that one of the joint inventors, Lijung Peng, is unavailable. 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 nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the $200.00 petition fee has been charged to Deposit

Account No. 50-1519 as authorized.

With regards to item (3), the last known address of the nonsigning joint inventor is listed as:

Peter-Dorffer-Strasse 5, D-86199
Augsburg, Germany

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

Regarding item (2), the 37 CFR 1.47(a) applicants claim that papers for the above-captioned application were forwarded to Mr. Peng' last known address but returned as undeliverable. Petitioners state that "public files were checked for current address information and according to the public records, Mr. Peng is still registered at the address in Augsburg, Germany." Petitioners declare that another attempt was made to forward the papers at the same address, but the result was the same.

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

Applicants' burden in showing that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

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

In this case, petitioners have not provided any documentary evidence to substantiate their claims. Copies of the postal receipts returned and internet records checks of the missing inventor are required. Moreover, a detailed statement of facts signed by a person with firsthand knowledge (if possible) should be provided with the renewed petition. Petitioners should also attempt to contact the nonsigning inventor directly by telephone or email if possible. For these reasons, item (2) is not yet

completed.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by three of the four joint inventors on behalf of both nonsigning joint inventors. However, this declaration does not comply with 37 CFR 1.497(a) and (b). Specifically, the declaration provided is only a composite declaration consisting of one Page 1 of 2 and three Page 2 of 2. Applicants must submit a complete copy of each declaration signed by each inventor and the declaration must identify the correct inventive entity.

For the reasons noted above, item (2) and (4) of 37 CFR 1.47(a) are not yet satisfied.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 OCT 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHIFF HARDIN, LLP
Patent Department
6600 Sears Tower
Chicago, IL 60606-6473

In re Application of LEIDL, Anton *et al* U.S. Application No.: 10/504,625 PCT No.: PCT/DE03/00363 Int. Filing Date: 07 February 2003 Priority Date: 15 February 2002 Attorney Docket No.: P040291 For: ELECTRODE STRUCTURE FOR ELECTRO-ACOUSTIC COMPONENT AND METHOD FOR PRODUCING SAID STRUCTURE	:	**DECISION**

This decision is in response to applicants' "Resubmittal of Petition Under 37 CFR 1.47(a) of Unavailable Inventor" filed on 14 September 2005.

BACKGROUND

On 12 July 2005, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy items (2) and (4) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 14 September 2005, applicants filed a renewed petition which was accompanied by, *inter alia*, an executed declaration and appendices A - K.

DISCUSSION

As previously noted, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventor. Items (1) and (3) were satisfied in the initial petition.

In the renewed petition, the 37 CFR 1.47(a) applicants included a newly executed declaration signed by three of the four named inventors on behalf of the nonsigning inventor, Lijun Peng. The declaration contains the citizenship, residence, and mailing address of each inventor. This declaration complies with 37 CFR 1.497(a)

and (b) and section 409.03(a) of the MPEP. As such, item (4) of 37 CFR 1.47(a) is now satisfied.

However, petitioners still have not satisfied item (2) of 37 CFR 1.47(a).

Most of the required documentary evidence submitted is in the German language without an accompanying English translation. Specifically, appendices B, C, E, F, G, I and J are in the German language. If petitioners want the Office to consider such evidence, an English translation is required. Petitioners should also provide a copy of counsel's Internet search for the nonsigning inventor and a copy of the email correspondence with the engineer named Lijun Peng.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

23 MAR 2006

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHIFF HARDIN, LLP
Patent Department
6600 Sears Tower
Chicago, IL 60606-6473

In re Application of	:	
LEIDL, Anton *et al*	:	
U.S. Application No.: 10/504,625	:	
PCT No.: PCT/DE03/00363	:	
Int. Filing Date: 07 February 2003	:	
Priority Date: 15 February 2002	:	**DECISION**
Attorney Docket No.: P040291	:	
For: ELECTRODE STRUCTURE FOR	:	
ELECTRO-ACOUSTIC COMPONENT	:	
AND METHOD FOR PRODUCING	:	
SAID STRUCTURE	:	

This is decision on the papers filed 07 November 2005 which are treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 18 October 2005, a decision dismissing applicant's renewed petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy all the elements required for a grantable petition. Applicants were given two-months to respond.

On 07 November 2005, applicants filed the subject response which was accompanied by an executed declaration signed by all named inventors.

DISCUSSION

The 37 CFR 1.47(a) applicant responded to the prior decision by providing a declaration signed by the nonsigning inventor, Lijun Peng. This declaration is in compliance with 37 CFR 1.497(a) and (b).

As such, a petition under 37 CFR 1.47(a) is no longer required.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 07 February 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 November 2005.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

14 JAN 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of FRANCHET et al	:	
U.S. Application No.: 10/504,638	:	
PCT Application No.: PCT/FR03/00061	:	
Int. Filing Date: 10 January 2003	:	
Priority Date Claimed: 10 January 2002	:	DECISION
Attorney Docket No.: 257241US41XPCT	:	
For: METHOD FOR THE PRODUCTION OF PARTS BY MEANS OF DIFFUSION BONDING AND SUPERPLASTIC FORMING, AND MOLD FOR CARRYING OUT SAID METHOD	:	

This is in response to applicant's "Petition to Revive Under 37 C.F.R. 1.137(b)" filed 12 August 2004.

BACKGROUND

On 10 January 2003, applicant filed international application PCT/FR03/00061, which claimed priority of an earlier France application filed 10 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 10 July 2004.

International application PCT/FR03/00061 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 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 basic national fee under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

11 FEB 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

In re Application of INCIONG, Josefino T. et al. Application No.: 10/504,650 PCT No.: PCT/US03/04789 Int. Filing Date: 14 February 2003 Priority Date: 15 February 2002 Attorney Docket No.: 60680-1973 For: MLS GASKET WITH BORE EDGE STOPPER BEAD	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' facsimile submission on 17 December 2004.

BACKGROUND

On 14 February 2003, applicants filed international application PCT/US03/04789. The deadline for entry into the national stage in the United States was 15 August 2004.

On 13 August 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 02 December 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that a small entity statement had been received and that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

On 17 December 2004, applicants submitted this petition requesting the removal of the small entity indication.

DISCUSSION

A review of the file did not reveal a small entity statement. The indication that one had been received was erroneous.

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 02 December 2004 is **VACATED**.

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 corrected Notification of Missing Requirements (Form PCT/DO/EO/905) without the small entity indication and indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES 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, COPYRIGHT & TRADEMARK LAW GROUP
PO BOX 506
RICHFIELD OH 44286

COPY MAILED

APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Alexei A. BYKOV et al.	:	
Application No. 10/504,666	:	DECISION ON PETITION
Filed: August 13, 2004	:	
Attorney Docket No. **04-1502**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before November 05, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 03, 2007. Accordingly, the date of abandonment of this application is November 04, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and the Publication Fee payment are accepted as having been unintentionally delayed.

If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **PATENT, COPYRIGHT & TRADEMARK LAW GROUP, LLC**
6100 OAK TREE BLVD., STE, 200
INDEPENDENCE, OH 44131

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dianne B. Elderkin
Woodcock Washburn
One Liberty Place – 46th Floor
Philadelphia, PA 19103

COPY MAILED

JUL 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Hilde AZIJN et al.	:	
Application No. 10/504,675	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. TIBO-0037	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 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 Wendy Choi on behalf of all attorneys of record who are associated with customer No. 23377.

All attorneys/agents associated with the Customer Number 00000 have been withdrawn.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Hidle Azijn
Wijngaardaan 8
Leuven, Belgium B-3001

cc: Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

12 SEP 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

MICHELLE M. CARNIAUX
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
VORBACH, Martin, et al.	:	
U.S. Application No.: 10/504,684	:	DECISION ON PETITION
PCT No.: PCT/DE03/00489	:	(37 CFR 1.181)
International Filing Date: 18 February 2003	:	
Priority Date: 18 February 2002	:	
Attorney's Docket No.: 2885/88	:	
For: BUS SYSTEMS AND METHOD FOR	:	
RECONFIGURATION	:	

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Notification Of Missing Requirements Under 37 CFR 1.181" filed on 14 July 2006. No petition fee is required.

BACKGROUND

On 18 February 2003, applicants filed international application PCT/DE03/00489. The application claimed a priority date of 18 February 2002, and it designated the United States. On 28 August 2003, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was 30 months from the priority date, i.e., 18 August 2004.

On 16 August 2004, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 28 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and additional claims fees, were required.

On 15 May 2006, the DO/EO/US mailed a Notification Of Abandonment (Form DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements.

On 14 July 2006, applicants filed the petition considered herein. The petition asserts that applicants never received the Notification Of Missing Requirements mailed 28 December 2004

and that the holding of abandonment should therefore be withdrawn. Applicants have included with the present petition an executed declaration, payment of the the surcharge for filing the declaration later than thirty months after the priority date, and the authorization to charge Deposit Account No. 11-0600 for additional required fees.

DISCUSSION

Section 711.03(c)(I)(A) of the MPEP sets forth the requirements for a grantable petition to confirm the failure to receive an Office communication:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact 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.

Here, the petition contains the required statements from the practitioner that the Notification Of Missing Requirements has not been received and is not present in the practitioner's files or docket.

As for the docket records requirement, petitioner has attached a copy of the firm's mail logs listing Office communications received from 28 December 2004 to 28 January 2005, as well as the docket jacket for this application. However, these materials are not sufficient to satisfy the docket records requirement. Rather, petitioner must provide a copy of the firm's office docket for the date on which a response to the Notification Of Missing Requirements would have been due, had the Notification been received (i.e., 28 February 2005).[1]

Based on the above, applicants have failed to satisfy all the requirements for a grantable petition to confirm that the Notification Of Missing Requirements mailed 28 December 2004 was not received. Withdrawal of the holding of abandonment would therefore be inappropriate on the present record.

It is noted that the declaration filed with the present petition complies with 37 CFR 1.497. Deposit Account No. 11-0600 will be charged the $180 small-entity fee for inclusion of a multiple dependent claim, and the small entity surcharge for late-filing of the declaration has been received. Thus, applicants have now submitted all the materials required by the

---

[1] See MPEP 711.03(c)(I)(A): "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."

Notification Of Missing Requirements mailed 28 December 2004 (a courtesy copy of the Notification of Missing Requirements is enclosed with the present decision).

CONCLUSION

Applicants' petition for withdrawal of the holding of abandonment based on the failure to receive the Notification Of Missing Requirements mailed 28 December 2004 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any such request must include the remaining requirements for a grantable petition demonstrating the failure to receive the Notification of Missing Requirements mailed 28 December 2004 (i.e., the required docket records discussed above and in the MPEP).

Please direct further correspondence with respect to this issue 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

Encl.: Copy of Notification Of Missing Requirements mailed 28 December 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/504,684	Martin Vorbach	2885/88

INTERNATIONAL APPLICATION NO.	
PCT/DE03/00489	
I.A. FILING DATE	PRIORITY DATE
02/18/2003	02/18/2002

26646
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

CONFIRMATION NO. 3438

371 FORMALITIES LETTER

OC000000014838462

Date Mailed: 12/28/2004

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 08/16/2004
- English Translation of the IA filed on 08/16/2004
- Copy of the International Search Report filed on 08/16/2004
- Information Disclosure Statements filed on 08/16/2004
- Small Entity Statement filed on 08/16/2004
- U.S. Basic National Fees filed on 08/16/2004
- Priority Documents filed on 08/16/2004

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of **$180** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

- 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.

- **$65** Surcharge for providing the oath or declaration later than 30 months from the priority date (37 CFR 1.492(e)) is required.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$245** for a Small Entity:

- **$65** Late oath or declaration Surcharge.

- Total additional claim fee(s) for this application is $ **180**

  - **$180** for multiple dependent claim surchare.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

SHELBY J VIGIL

Telephone: (703) 305-3653

PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/504,684	PCT/DE03/00489	2885/88

FORM PCT/DO/EO/905 (371 Formalities Notice)

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

08 FEB 2007

Michelle M. Carniaux
KENYON & KENYON, LLP
One Broadway
New York, NY 10004

In re Application of:	:	
VORBACH, Martin, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/504,684	:	PETITION TO WITHDRAW
PCT No.: PCT/DE2003/000489	:	HOLDING OF ABANDONMENT
International Filing Date: 18 February 2003	:	(37 CFR 1.181)
Priority Date: 18 February 2002	:	
Atty Docket No.: 2885/88	:	
For: BUS SYSTEMS AND METHOD	:	
FOR RECONFIGURATION	:	

In a decision mailed by this Office on 12 September 2006, applicants' petition to withdraw the holding of abandonment herein was dismissed without prejudice for failure to satisfy the requirements of a grantable petition. Specifically, applicants had not provided the docket records necessary to confirm that applicants did not receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 28 December 2004.

On 07 November 2006, applicants filed the renewed petition considered herein. The renewed petition includes the required docket records for counsel's office on the date a response to the Notification Of Missing Requirements would have been due.

Applicants have now satisfied all the requirements for a grantable petition to withdraw the holding of abandonment based on applicants' failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 28 December 2004.

The renewed petition for withdrawal of the holding of abandonment is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/909) mailed 15 May 2006, based as it was on applicants' failure to respond to a Notification Of Missing Requirements that applicants did not receive, is appropriately **VACATED**.

As noted in the previous decision, applicants' 14 July 2006 submission included the executed declaration and surcharge and fee payments required by the Notification Of Missing Requirements.

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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 July 2006.

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

10 FEB 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Malcolm K. McGowan, Ph.D
Burns, Doane, Swecker & Mathis, LLP
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
HRUBY, et al.	:	DECISION ON PETITION
Application No.: 10/504,687	:	
Filing Date: 16 August 2004	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 016921-249	:	
For: SCREENING METHOD FOR ORTHOPOXVIRUS	:	
ANTIVIRALS	:	

The petition to revive under 37 CFR 1.137(b) filed 16 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply, i.e. the national stage filing, from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional" and 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 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 08 January 2003 under 35 U.S.C. 363 and will be given a date of **16 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

18 MAR 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
CORNOLTI et al.	:	
Application No.: 10/504,699	:	DECISION ON
PCT No.: PCT/IT02/00012	:	
Int. Filing Date: 14 January 2002	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 601-080	:	37 CFR 1.137(b)
For: DISK-BRAKE SYSTEM	:	

This decision is in response to applicants' submission filed 05 August 2004.

BACKGROUND

On 14 January 2002, applicants filed international application PCT/IT02/00012 which designated the U.S. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 July 2004.

On 05 August 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 TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION (37 CFR 1.137(b))".

On 15 September 2004, applicants submitted, *inter alia*, a declaration of inventors.

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 05 August 2004.

As to item (2), applicant submitted the petition fee on 05 August 2004.

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

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

The declaration of inventors filed 15 September 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-18-10

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10504700 Patent No.: 7682738

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 – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE

1795
Art Unit

06 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lorraine Linford
Seed Intellectual Property Law Group
Suite 6300
701 5th Avenue
Seattle, WA 98104-7092

In re Application of BERGMAN, Carl Application No.: 10/504,712 PCT No.: PCT/SE03/00255 Int. Filing Date: 17 February 2003 Priority Date: 20 February 2002 Attorney Docket No.: 340058.576USPC For: METHOD OF COOLING A HOT ISOSTATIC PRESSING DEVICE AND A HOT ISOSTATIC PRESSING DEVICE	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Petition under 37 CFR 1.47(b) to File Application on Behalf of and as Agent for Inventor" filed 08 June 2005, which is being treated as a petition under 37 CFR 1.47(b) to accept the application without the signature of inventor, Carl Bergman.

BACKGROUND

On 17 February 2003, applicant filed international application PCT/SE03/00255, which claimed a priority date of 20 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, 20 August 2004.

On 17 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); a copy of the international application; and a preliminary amendment.

On 08 February 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 must be filed. The notification set a two-month time limit in which to respond.

On 08 June 2004, applicant filed "Petition under 37 CFR 1.47(b) to File Application on Behalf of and as Agent for Inventor" and a petition for a two-month extension of time under 37 CFR 1.136(a).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1); (3); (4) and (6). However, items (2) and (5) have not been satisfied.

Regarding item (2) above, petitioner states that Carl Bergman has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that applicant has not satisfied the item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Carl Bergman. The declaration of Gunnar Hjalt states that "a copy of the contents of the application, including the specification, claims and drawings had been sent to Mr. Bergman by mail on 23 March 2005 . . . Mr. Bergman verbally acknowledged receipt of all the documents and indicated his unwillingness to sign the U.S. Declaration." However, no documentary evidence to support the refusal or the attempt was provided in the petition. As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Carl Bergman, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letters of instruction, telegrams, etc., should be supplied with the declaration.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

As to item 5, petitioner has not submitted sufficient evidence that the inventor assigned the instant application to Flow Holdings. As stated above, when an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Carl Bergman under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)."

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

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

27 APR 2006

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lorraine Linford
Seed Intellectual Property Law Group
Suite 6300
701 5th Avenue
Seattle, WA 98104-7092

In re Application of BERGMAN, Carl Application No.: 10/504,712 PCT No.: PCT/SE03/00255 Int. Filing Date: 17 February 2003 Priority Date: 20 February 2002 Attorney Docket No.: 340058.576USPC For: METHOD OF COOLING A HOT ISOSTATIC PRESSING DEVICE AND A HOT ISOSTATIC PRESSING DEVICE	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 06 January 2006 to accept the application without the signature of inventor, Carl Bergman.

BACKGROUND

On 17 February 2003, applicant filed international application PCT/SE03/00255, which claimed a priority date of 20 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, 20 August 2004.

On 17 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); a copy of the international application; and a copy of the international search report.

On 08 February 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 must be filed. The notification set a two-month time limit in which to respond.

On 08 June 2005, applicant filed "Petition under 37 CFR 1.47(b) to File Application on Behalf of and as Agent for Inventor" and a petition for a two-month extension of time

under 37 CFR 1.136(a). In a decision dated 06 September 2005, applicant's petition was dismissed without prejudice.

On 06 January 2006, applicant filed a renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

A complete review of the papers filed 06 January 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor has refused to execute the application, stated the last known address of the non-signing inventor, provided an acceptable declaration, provided sufficient proof of proprietary interest, and provided a sufficient showing of preservation of right or irreparable damage. Accordingly, all of the requirements of items (1) through (6) above have been satisfied.

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application will be given an international filing date of 17 February 2003 under 35 U.S.C. 363, and a date of **08 June 2005** under 35 U.S.C. 371(c).

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

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

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

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

27 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Carl Bergman
Haga Parkgata 7A, s-723 36
Vasteras, Sweden

In re Application of
BERGMAN, Carl
Application No.: 10/504,712
PCT No.: PCT/SE03/00255
Int. Filing Date: 17 February 2003
Priority Date: 20 February 2002
Attorney Docket No.: 340058.576USPC
For: METHOD OF COOLING A HOT ISOSTATIC PRESSING DEVICE AND A HOT ISOSTATIC PRESSING DEVICE

Dear Mr. Bergman:

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

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

Anthony Smith

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

Counsel of Record:
Lorraine Linford
Seed Intellectual Property Law Group
Suite 6300
701 5th Avenue
Seattle, WA 98104-7092

02 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Celine Jimenez Crowson
HOGAN & HARTSON L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 2004

In re Application of	:
PACCHIANA, Giovanni et al.	: DECISION ON
US Application No.: 10/504,715	:
PCT Application No.: PCT/IT02/00096	:
Int. Filing Date: 19 February 2002	: PETITION UNDER
Priority Date: NONE	:
Attorney's File Reference: 82062-0123	:
For: PAD FOR CALIPERS OF DISK BRAKES	: 37 CFR 1.137 (b)

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 27 January 2005 is **GRANTED**.

BACKGROUND

On 19 February 2002, applicants filed international application PCT/IT02/00096. The international application designated the United States and did claim priority to an earlier filed application. 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 deadline for entry into the United States National Stage was thirty months from the priority date, that is 19 August 2004.

On 16 August 2004, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia,* a Transmittal Letter, an Information Disclosure Statement, and a Preliminary Amendment. The Transmittal Letter listed Deposit Account Number 24633 for payment of the $1210 National Stage Filing Fee.

On 12 January 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to provide the full U.S. Basic National Fee by 30 months.

On 27 January 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), a Transmittal Letter that correctly lists Deposit Account Number 50-1349, 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) 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 paying the National Stage Filing fee 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, applicants are 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.

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
Ula Ruddock
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 05 2007

OFFICE OF PETITIONS

Kenneth R Schaefer
25 Dickinson Road
Basking Ridge, NJ 07920

In re Application of :
Vu, et al. : DECISION ON PETITION
Application No. 10/504,720 :
Filed: August 16, 2005 :
Atty. Dkt. No.: HAM-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 2006, 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 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 for failure to timely reply to the non-final Office action mailed January 12, 2006. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed July 21, 2006.

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

Any petition under 37 CFR 1.137(b) must be accompanied by the required petition fee prior to treatment on the merits. The instant petition lacks the required fee and, therefore, has not been reviewed on the merits.

The correspondence address contained on the instant petition differs from that currently of record before the Office. If practitioner desires to receive future correspondence regarding this application at an address other than that currently of record before the office, a change of correspondence address should be promptly submitted. All future correspondence regarding this application will be directed to the correspondence address of record until such time as instruction is received to the contrary.

Any renewed petition must include the required 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 facsimile: (51) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Kenneth R Schaefer
104 Bay Point Harbour
Point Pleasant, NJ 08742

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 0 4 2007

OFFICE OF PETITIONS

Kenneth R. Schaefer
104 Bay Point Harbour
Point Pleasant NJ 08742

In re Application of	:
Vu, et al.	: DECISION ON PETITION
Application No. 10/504,720	:
Filed: August 16, 2005	:
Atty. Dkt. No.: HAM-001	:

This is a decision on the communication submitted March 6, 2007.

The petition to revive pursuant to 37 CFR 1.137(b) is hereby **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed January 12, 2006. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed July 21, 2006.

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

Any petition under 37 CFR 1.137(b) must be accompanied by the required petition fee prior to treatment on the merits. The instant petition lacks the required fee and, therefore, has not been reviewed on the merits.

The requested change of correspondence address has been entered into the record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 18 2007

OFFICE OF PETITIONS

Kenneth R. Schaefer
104 Bay Point Harbour
Point Pleasant NJ 08742

In re Application of :
Vu, et al. : DECISION ON PETITION
Application No. 10/504,720 :
Filed: August 16, 2005 :
Atty. Dkt. No.: HAM-001 :

This is a decision on the communication submitted March 6, 2007 and corrects the decision mailed April 4, 2007.

The petition to revive pursuant to 37 CFR 1.137(b) is hereby **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed January 12, 2006. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed July 21, 2006.

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

The requested change of correspondence address has been entered into the record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

Mail Date: 04/21/2010

Applicant	: Mark Kowalak	: DECISION ON REQUEST FOR
Patent Number	: 7578657	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/504,730	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1084** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Yuji Murao	: DECISION ON REQUEST FOR
Patent Number	: 7620970	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/504,735	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2005	: 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.

15 FEB 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAYER CROPSCIENCE LP
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205-9741

In re Application of ANDERSCH et al	:	
U.S. Application No.: 10/504,768	:	
PCT Application No.: PCT/EP03/01283	:	DECISION
Int. Filing Date: 10 February 2003	:	
Priority Date Claimed: 21 February 2002	:	
Attorney Docket No.: CS8304/LeA 35,896	:	
For: SYNERGISTIC INSECTICIDAL MIXTURES	:	

This is in response to applicant's "Submission of Missing Parts of Application Under 37 CFR 1.53" filed 28 January 2005, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 10 February 2003, applicant filed international application PCT/EP03/01283, which claimed priority of an earlier Germany application filed 21 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 21 August 2004.

On 17 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 21 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 28 January 2005, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

The declaration states that joint inventor Christoph Erdelen is deceased.

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

The declaration filed 28 January 2005 is accepted under 37 CFR 1.42.

Applicant is advised that the submission of a declaration executed by the heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

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 10 February 2003, and a date under 35 U.S.C. 371(c) of 28 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

03 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAYER CROPSCIENCE LP
Patent Department
100 BAYER ROAD
PITTSBURGH PA 15205-9741

In re Application of CHRISTOPH ERDELEN (deceased) Application No.: 10/504,773 PCT No.: PCT/EP02/01281 Int. Filing Date: 10 February 2003 Priority Date: 21 February 2002 Attorney's Docket No.: CS-8306/LeA 35,895 For: SYNERGISTIC INSECTICIDE MIXTURES	DECISION ON REQUEST FOR STATUS UNDER 37 CFR 1.42

This is a decision on applicant's "Submission of Missing Parts of Application under 37 CFR 1.53" filed in the United States Patent and Trademark Office (USPTO) on 26 January 2005, and is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 10 February 2003, applicant filed international application PCT/EP02/01281, which claimed priority of an earlier German application filed 21 February 2002. On 23 June 2003, a Demand for international preliminary examination was filed and the thirty month period for paying the basic national fee for processing in the United States expired at midnight on 21 August 2004.

On 17 August 2004, applicant filed a Transmittal Letter for entry into the national stage in the United States of America along with a basic national fee. Filed with the Transmittal Letter were, *inter alia*: the basic national fee.

On 18 January 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 26 January 2005, applicant filed a response to the Notification of Missing Requirements including an executed declaration. The declaration indicates that inventor Christoph Erdelen is deceased. The declaration is signed by joint inventors Wolfram Andersch, Peter Jeschke, Thomas Bretschneider as named in the originally filed international application and by Angelika Lubos-Erdelen, legal representative of deceased joint inventor Christoph Erdelen.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The legal representative of a deceased inventor must make the application for patent "on

the same terms and conditions applicable to the inventor." 35 U.S.C. 117. To this end, 37 CFR 1.497(b)(2) states, in pertinent part,:

"If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of the person to the inventor....". (Emphasis added.)

The declaration submitted on 26 January 2005 identifies the signatory and states the relationship of the person signing to the inventor as the legal representative for deceased inventor, Christoph Erdelen and is acceptable under 37 CFR 1.42. (See MPEP §409.01(a)). Thus, the declaration satisfies 37 CFR 1.497(b)(2) and is acceptable. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

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

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c) date is **26 January 2005.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

24 JAN 2007

Goodwin Procter
599 Lexington Avenue
New York NY 10022

In re Application of MCDONALD Serial No.: 10/504,783 PCT No.: PCT/GB03/00419 Int. Filing Date: 3 February 2003 Priority Date: 16 February 2002 Atty. Docket No.: 105620-719-NP For: IMPROVEMENTS IN AND RELATING TO SHEET ARTICLES	DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 14 August 2006.

On 09 August 2004, within the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 and a declaration signed by the inventor. The basic national fee, a requirement under 35 U.S.C. 371(c), was submitted.

On 13 June 2005, a Notification of Missing Requirements was mailed indicating that an 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 26 April 2006, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements.

On 14 August 2006, applicant filed the instant petition to revive.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), (3) a statement that the "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 (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d),

With regard to Item (1), the proper reply, that is, the executed declaration, in compliance with 37 CFR 1.1497(a) and (b) was provided.. With respect to Item (2), the petition included the petition fee of $750. As to Item (4) above, no terminal disclaimer is required as the application was filed after 09 June 1995. With regard to Item (3), applicant made the statement: "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" was made. Thus, Items (1), (2), (3) and (4) are satisfied.

CONCLUSION

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

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2), (c)(4) date is **14 August 2006.**

Cynthia M. Kratz

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

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 18 2007

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

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:
Tauseff Butt et al	:
Serial No.: 10/504,785	: PETITION TO MAKE SPECIAL
Filed: August 12, 2004	:
Attorney Docket No.: 1955-P03237US1	:

This is in response to the petition filed January 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DEPARTMENT
ROVI CORPORATION
2830 DE LA CRUZ BOULEVARD
SANTA CLARA, CA 95050

Mail Date: 04/21/2010

Applicant	: Mark Dominic Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7661145	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/504,812	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1156** 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 : 2/5/09

TO SPE OF : ART UNIT 3616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10504815 Patent No.: 7322607

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

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: _____

APPROVED - ALL CHANGES APPLY

/Paul N. Dickson/ — **SPE**

3616 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

Mail Date: 05/10/2010

Applicant	: Manfred Heim	: DECISION ON REQUEST FOR
Patent Number	: 7611168	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/504,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

08 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Leonard W. Sherman
Sherman & Shalloway
413 North Washington Street
Alexandria, VA 22314

In re Application of
YAMADA, Kikuo :
Application No.: 10/504,822 :
PCT No.: PCT/JP03/01985 :
Int. Filing Date: 24 February 2003 : DECISION ON REQUEST
Priority Date: 22 February 2002 :
Attorney Docket No.: HOS-72 :
For: CLEANING TOOL AND METHOD FOR MANUFACTURING CLEANING PORTION CONSTITUTING THE CLEANING TOOL :

This decision is in response to applicant's "Correction of Inventorship" filed 08 September 2004 and "Submission of Executed Declaration and Power of Attorney in Compliance with 37 CFR 1.497(a) and (b)" filed 21 January 2005.

On 24 February 2003, applicant filed international application PCT/JP03/01985 which 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 08 August 2003. The international application named Kikuo Yamada as the sole applicant/inventor. 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 August 2004.

On 17 August 2003, applicant filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; a translation of the international application; a translation of the international application; and an application data sheet. The application data sheet indicated two inventors.

On 08 September 2004, applicant filed a "Correction of Inventorship" and a corrected (supplemental) application data sheet. The corrected application data sheet indicated only one inventor, Kikuo Yamada.

In response to the Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) dated 14 January 2005, applicant filed a declaration executed by Kikuo Yamada on 21 January 2004.

The declaration filed on 21 January 2005 is in compliance with 37 CFR 1.497(a) and (b). The application has an international filing date of 24 February 2003 under 35 U.S.C. 363 and a date of **21 January 2005** under 35 U.S.C. 371(c). Applicant's "Correction of Inventorship" is dismissed as moot and the declaration filed 21 January 2005 is accepted. The supplemental application data sheet has been placed in the application file.

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

Anthony Smith

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/504,827	02/18/2005	Evelyne Bonnet	CRAY 154322	2023

7590 07/07/2008
COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

EXAMINER
CAMERON, ERMA C

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
07/07/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK NY 10022

MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,534,905	:	DECISION ON REQUEST FOR
Leighton et al.	:	RECONSIDERATION OF
Issue Date: May 19, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/504,831	:	AND NOTICE OF INTENT TO ISSUE
Filed: July 26, 2005	:	CERTIFICATE OF CORRECTION
Docket No.19240.338-US3	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705, filed July 20, 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 three hundred fourteen (314) days to six hundred eleven (611) days.

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

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **587 days**.

On May 19, 2009, the above-identified application matured into U.S. Patent No. 7,534,905. The patent issued with a revised patent term adjustment of 314 days. The present request for reconsideration of patent term adjustment was timely filed on July 20, 2009, 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 611 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 maintain that the total period of Office delay is the sum of the period of Three Year Delay[1] (297 days) and the period of examination delay[2] (353 days)[3] to the extent that these periods of delay are not overlapping. Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C.

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

[2] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one 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;

[3] A Restriction Requirement was mailed on September 14, 2007, 14 months and 353 days after the date on which the requirements under 35 U.S.C. 371 were fulfilled on July 26, 2005.

154(b)(1)(B) overlap. Therefore, patentees assert that they are entitled to the sum of 353 days of examination delay - 39 days of applicant delay + 297 days of Three Year Delay, for a total patent term adjustment of 611 days.

At the outset, the Office notes that period of delay of 297 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 35 U.S.C. 371(b) national stage commencement date of September 1, 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, July 26, 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), September 1, 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 626 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), September 2, 2007, and ending on the date the patent issued, May 19, 2009.

As to patentees' interpretation of the period of overlap, the Office 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)*[4] *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).

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

---

[4] 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.

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 entire period from the date the national stage commenced under 35 U.S.C. 371(b), September 1, 2004, to the date the patent issued, May 19, 2009 (not including any other 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), 353 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), 626 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).

The 626 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 353 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 626 days and the 353 days is neither permitted nor warranted. 626 days is the actual number of days issuance of the patent was delayed. At issuance, the Office entered 353 days of patent term adjustment pursuant to 37 CFR 1.703(a)(1), but failed to enter the additional period of adjustment of 273 days pursuant to 37 CFR 1.703(b). Accordingly, an additional period of adjustment of 273 days will be entered for the Office failing to issue the patent within three years.

In view thereof, the patent term adjustment indicated on the patent should be 587 days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 587 days.

Telephone inquiries regarding this matter should be directed to Kenya A. McLaughlin, Petition 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 : 7,534,905 B2

DATED : May 19, 2009

INVENTOR(S) : Leighton, 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 (314) days

Delete the phrase "by 314 days" and insert – by 587 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 30 2010

OFFICE OF PETITIONS

WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK NY 10022

In re Patent No. 7,534,905	:	DECISION ON REQUEST
Leighton, et al.	:	FOR
Issue Date: May 19, 2009	:	RECONSIDERATION OF
Application No. 10/504,831	:	PATENT TERM ADJUSTMENT
Filed: July 26, 2005	:	and
Atty Docket No. 19240.338-US3	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 28, 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 six hundred and eleven (611) 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-seven (927) days[1] is **GRANTED to the extent indicated herein.**

---

[1] The "B" delay period is 626 days, not 297 days. Patentees 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 March 1, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on September 1, 2004. Thus, "B" delay is 626 days, counting the number of days beginning on September 2, 2007, and ending on May 19, 2009, the date of issuance. See 1.703(b). It is further noted that there are overlapping days between the periods of "A" delay and "B" delay. It is noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the period of "A" delay

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 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 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 **nine hundred and twenty-seven (927) days**.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---

that overlaps he period of "B" delay began September 2, 2007, and ended September 14, 2007—a total of 13 days. Thus, the total patent term adjustment is 927 days (979 days Office delay - 13 days overlap - 39 days of applicant delay.)

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,905 B2

DATED : May 19, 2009

INVENTOR(S) : Leighton 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 (314) days

Delete the phrase "by 314 days" and insert – by 927 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

12 DEC 2005

Robert M. Barrett
Bell, Boyd & Lloyd, LLC
Three First National Plaza
70 west Madison Street, Suite 3100
Chicago, Illinois 60602-4207

In re Application of ANEAS Application No.: 10/504,837 PCT No.: PCT/FR03/00555 Int. Filing Date: 19 February 2003 Priority Date: 20 February 2002 Atty. Docket No.: 1417G P 1093 For: DEVICE FOR CONNECTION BETWEEN A RECEPTACLE AND A CONTAINER AND READY-TO-USE ASSEMBLY COMPRISING SAME	DECISION ON PETITION UNDER 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) (Large Entity)" filed 14 November 2005.

BACKGROUND

On 19 February 2003, applicant filed international application PCT/FR03/00555, which claimed priority of an earlier application filed 20 February 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 August 2004.

On 17 August 2004, applicant filed a transmittal letter for entering the U.S. national stage under 35 U.S.C. 371; payment of the U.S. basic national fee; a first preliminary amendment and an English translation of the published international application.

On 31 March 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. Applicant was afforded two months to file the response.

On 14 November 2005, applicant filed the present petition to revive.

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). Applicant has satisfied items 1 and 2. Item 4 does not apply.

As to item 3, applicant has included a statement from Robert M. Barrett 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" However, this statement is insufficient for the purpose of satisfying this item. It does not appear that Mr. Barrett that worked at the firm of record (Wallenstein, Wagner & Rockey) where the Form PCT/DO/EO/905 was mailed nor the new firm of record listed in the filed power of attorney. Therefore, it is unclear how Mr. Barrett knows that the total period of abandonment from the due date for the required reply until the filing of the reply was unintentional. Absent further information, it is not possible to grant applicant's petition at this time.

Similarly, 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.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

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

30 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert M. Barrett
Bell, Boyd & Lloyd, LLC
Three First National Plaza
70 west Madison Street, Suite 3100
Chicago, Illinois 60602-4207

In re Application of	:	
ANEAS	:	
Application No.: 10/504,837	:	
PCT No.: PCT/FR03/00555	:	DECISION ON PETITION
Int. Filing Date: 19 February 2003	:	
Priority Date: 20 February 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 1417G P 1093	:	
For: DEVICE FOR CONNECTION BETWEEN A RECEPTACLE AND A CONTAINER AND READY-TO-USE ASSEMBLY COMPRISING SAME	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.137(b)" filed 13 February 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 December 2005, applicant was mailed a decision dismissing applicant's petition to revive the present National stage application. Applicant was afforded two months to file any request for reconsideration.

On 13 February 2006, applicant filed the present renewed petition to revive accompanied by a power of attorney and request for change of correspondence address.

DISCUSSION

As detailed in the decision mailed 12 December 2005, 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). Applicant previously satisfied items 1 and 2; while item 4 did not apply.

Regarding item 3, applicant originally included a statement from Robert M. Barrett 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" The decision mailed 12 December 2005 requested further information before granting applicant's petition. Applicant has presently provided an additional statement from Mr. Barrett, as well as, an affidavit from fellow counsel Mr. Robert M. Gould explaining that they were in communication with Mr. Bradford Price of Baxter International, Inc. regarding the prosecution of the above-identified application. Mr. Gould states he and Mr. Barrett worked with Mr. Price on patents "that cover the BioSet product line, which includes application number 10/504,837."

The assignment document in this case is to "BIODOME" a French corporation.

MPEP 711.03(c), Section II. E. states in relevant part,

> The question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional. When the applicant assigns the entire right, title, and interest in an invention to a third party (and thus does not retain any legal or equitable interest in the invention), the applicant's delay is irrelevant in evaluating whether the delay was unavoidable or even unintentional. See *Kim v. Quigg*, 718 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607-08 (E.D. Va. 1989). When an applicant assigns the application to a third party (e.g., the inventor/applicant's employer), and the third party decides not to file a reply to avoid abandonment, the applicant's actions, inactions or intentions are irrelevant under 37 CFR 1.137, unless the third party has reassigned the application to the applicant prior to the due date for the reply. *Id.*

It is unclear from applicant's present filing what the role of Baxter International is in the application. In order to perfect the statement of unintentional abandonment applicant should provide a history of the relationship between BIODOME and Baxter International accompanied by any supporting documentation such as an assignment or business agreement. If Baxter International does indeed have the right or authority to reply to avoid abandonment further information as to the role of Mr. Price, as well as, his communications with Mr. Barrett and Mr. Gould during the time period from the due date for the required reply until the filing of the original petition to revive on 14 November 2005 would be helpful.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

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

01 SEP 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

Bradford R.L. Price
Baxter International, Inc.
One Baxter Parkway, DF3-2E
Deerfield, IL 60015

In re Application of	:	
ANEAS	:	
Application No.: 10/504,837	:	
PCT No.: PCT/FR03/00555	:	DECISION ON RENEWED
Int. Filing Date: 19 February 2003	:	
Priority Date: 20 February 2002	:	PETITION UNDER
Atty. Docket No.: 1417G P 1093	:	
For: DEVICE FOR CONNECTION BETWEEN A RECEPTACLE AND A CONTAINER AND READY-TO-USE ASSEMBLY COMPRISING SAME	:	37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 31 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's current statement and explanation satisfies the concerns raised in the decision mailed 30 May 2006 and the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant provided an executed declaration of the inventor with the original petition to revive filed 14 November 2005. 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 19 February 2003 under 35 U.S.C. 363 and will be given a date of **14 November 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

FF 7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

21 DEC 2005

22850
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
ISHIKAWA, Yoshinobu *et al* :
U.S. Application No.: 10/504,855 :
PCT No.: PCT/JP03/02387 : **DECISION**
Int. Filing Date: 28 February 2003 :
Priority Date: 28 February 2002 :
Attorney Docket No.: 258091US3PCT :
For: CONVEYOR APPARATUS :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed with the United States Designated/Elected Office (DO/EO/US) on 12 September 2005.

BACKGROUND

On 11 February 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) was required. Applicants were given two months to respond with extensions of time available.

On 12 September 2005, applicants filed a response which was accompanied by, *inter alia*, a petition under 37 CFR 1.47(a); a five-month extension and fee; a $130.00 petition fee; a declaration signed by nine of the eleven joint inventors; a declaration by Takao Suzuki; and copies of correspondence and receipts (with English translation) sent to the nonsigning inventors, Mr. Teshima and Mr. Matsuura.

DISCUSSION

In response to the Form PCT/DO/EO/905, applicants filed a declaration signed by nine of the eleven joint inventors and a petition under 37 CFR 1.47(a) claiming that two of the joint inventors were unable to be located.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor(s) cannot be located or refuses to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the fee for a petition under 37 CFR 1.47 has changed to

$200.00. Applicants submitted a $130.00 petition fee. The additional fee of $70.00 has been charged to Deposit Account No. 15-0030 as authorized.

With regards to item (3), the last known address of the nonsigning joint inventor, Mr. Nobuhiko Teshima, is listed as:

2-26-12, Nishi-machi,
Kokubunji-shi,
Tokyo 185-0035
Japan

The last known address of the nonsigning joint inventor, Mr. Tomohiko Matsuura, is listed as:

1364-B202, Bessho-cho
Himeji-shi
Hyogo 671-0221
Japan

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by nine of the eleven joint inventors on behalf of both nonsigning joint inventors pursuant to section 409.03(a) of the Manual of Patent Examining Procedure (MPEP). The citizenship, residences and mailing addresses of the joint inventors are all listed. This declaration is in compliance with 37 CFR 1.497(a) and (b).

Hence, items (1), (3) and (4) of 37 CFR 1.47(a) are complete.

Regarding item (2), the 37 CFR 1.47(a) applicants submitted a declaration by Takao Suzuki who claims to be the person most familiar with the efforts to obtain the signatures of the two nonsigning joint inventors. Mr. Suzuki states that a copy of the application and declaration were sent to the last known addresses of the two missing inventors. No response was received. Petitioners did not show that any other effort was made to locate the two nonsigning inventors.

This effort does <u>not</u> meet the requirements of item (2) of 37 CFR 1.47(a).

Applicants' burden in showing that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which

are relied on to establish that a diligent effort was made . . .

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.

In this case, petitioners have not shown that any effort was made to locate the two nonsigning inventors. Mr. Suzuki claims that "Mr. Teshima is probably living in a foreign country" and uses that assertion as justification for not attempting to locate him. This is insufficient. Petitioners must attempt to locate Mr. Teshima and provide documentary evidence of their attempt in any renewed petition. Mr. Suzuki also states that letters were sent to the last known address of Mr. Matsuura but they have not received a response yet. This is also insufficient. Petitioners have provided no evidence that they attempted to determine whether Mr. Matsuura still lives at that address. There is no indication that even a telephone call was made. These are not extraordinary efforts and are required to demonstrate that a diligent effort has been made as required under 37 CFR 1.47.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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

19 SEP 2006

22850
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
ISHIKAWA, Yoshinobu *et al* :
U.S. Application No.: 10/504,855 :
PCT No.: PCT/JP03/02387 : **DECISION**
Int. Filing Date: 28 February 2003 :
Priority Date: 28 February 2002 :
Attorney Docket No.: 258091US3PCT :
For: CONVEYOR APPARATUS :

This is a decision on the papers filed 21 April 2006 which are treated as a renewed petition under 37 CFR1.47(a).

BACKGROUND

On 21 December 2005, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed for failing to satisfy all of the requirements of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 21 April 2006, applicants submitted the renewed petition which included a two-month extension of time and a declaration executed by both nonsigning inventors.

DISCUSSION

Applicants responded to the prior decision by filing the renewed petition along with a two-month extension and $450.00 fee. In their response, applicants submitted a declaration executed by the missing co-inventors, Mr. Nobuhiko Teshima and Mr. Tomohiko Matsuura.

This declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 February 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 April 2006.

10/504,855

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 29 2009

Gregory J. Maier
OBLON, SPIVAK, MCCLELLAND, MAIER
& NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re application of
Yoshinobu Ishikawa et al.
Application No. 10/504,855
Filed: April 21, 2006
For: CONVEYOR APPARATUS HAVING FOOTSTEPS

: **DECISION ON PETITION**
: **TO CONSIDER AN**
: **INFORMATION DISCLOSURE**
: **STATEMENT**

This letter is in response to applicant's petition filed April 8, 2008 requesting that the examiner be provided with this application so that the Examiner can consider the Information Disclosure Statement (IDS) that was filed on November 16, 2007 and notify applicant of proper consideration of the (IDS).

The Petition is **DISMISSED as moot**.

A review of the record shows that of the two separate IDSs filed November 16, 2007, one was considered by the examiner and a signed 1449, stating the references contained therein were considered, was mailed to applicant June 6, 2008. The second was considered by the examiner and a signed 1449, stating the reference contained therein were considered, was mailed to applicant May 27, 2008.

Inquiries related to this decision should be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

David Bagnell
Acting Director
Technology Center 3600
(571) 272-6999

Goc/snm: 1/15/09

SM

01 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jeffrey D. Karceski
PILLSBURY WINTHROP
PO Box 10500
McLean, VA 22102

In re Application of: ONOSATO, Yoichi, et al.	:	
U.S. Application No.: 10/504,864	:	
PCT No.: PCT/JP03/01545	:	DECISION
International Filing Date: 14 February 2003	:	
Priority Date: 18 February 2002	:	
Attorney's Docket No.: 061069-0311073	:	
For: OPTICAL FIBER COATED WITH METAL	:	

This decision is issued in response to applicants' "Response Regarding Processing Fee For English Translation Of Japanese Application" filed 16 March 2005. No petition fee is required.

BACKGROUND

On 19 January 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/O/905) indicating that the following materials were required: (1) a translation of the international application into English; (2) the processing fee for filing the translation later than thirty months after the priority date; (3) an executed oath or declaration in compliance with 37 CFR 1.497; and (4) the surcharge for filing the declaration later than thirty months after the priority date. The Notification stated that the English translation filed by applicants on 17 August 2004 was defective because "Claims 2 and 3 are translated incorrectly re: claim dependency."

On 16 March 2005, applicants filed a response to the Notification Of Missing Requirements that included, among other materials, an executed declaration, the surcharge for filing the declaration later than thirty months after the priority date, and the "Response Regarding Processing Fee For English Translation Of Japanese Application" considered herein.

DISCUSSION

The "Response Regarding Processing Fee For English Translation Of Japanese Application" states that the English translation of the international application filed 17 August 2004 was a proper translation of the international application as filed, noting that all three claims are independent claims. Applicants therefore assert that the requirements of a corrected translation and the processing fee for filing the correct translation late are inappropriate.

Based on applicants' statements and a review of the published international application and the translation filed by applicants on 17 August 2004 (within thirty months of the priority date), it is confirmed that there are no apparent defects in the filed translation, including Claims 2 and 3. Accordingly, the requirements of a corrected translation and the related processing fee are appropriately withdrawn.

CONCLUSION

That portion of the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 19 January 2005 which required submission of a corrected translation of the international application into English and the processing fee for filing the translation later than thirty months after the priority date is hereby **VACATED.**

The 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 16 March 2005.

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

21 JUL 2005
United States Patent and Trademark Office

#5

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

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Suite 800
Washington, DC 20037

In re Application of	:	
Onodera et al.	:	
Application No.: 10/504,876	:	
PCT No.: PCT/JP03/01724	:	
Int. Filing Date: 18 February 2003	:	DECISION
Priority Date: 20 February 2002	:	
Attorney Docket No.: Q83076	:	
For: Optical Glass And Method For Producing The Same	:	

This is with regard to the response filed on 10 June 2005.

BACKGROUND

This international application was filed on 18 February 2003, designated the United States, and claimed an earliest priority date of 20 February 2002. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 20 August 2004. Applicants filed *inter alia* the basic national fee on 17 August 2004.

On 12 January 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e). It was indicated that "the first inventor's name on the declaration does not match the name on the international application. Please clarify."

DISCUSSION

Inspection of the declaration of the inventors filed on 17 August 2004 reveals that it names a joint inventor, Kumi Onodera, whose name does not appear on the published international application, and inspection of the published international application reveals that it lists a joint inventor, Kumi Nagata, whose name does not appear in the declaration filed on 17 August 2004. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required to resolve this matter. The instant response is being treated as such a petition. As the petition fee for a petition under 37 CFR 1.182 was $400.00 as of the date the petition was filed, and insofar as counsel only paid the fee in the amount of $130.00, the $270.00 shortfall is being charged to counsel's Deposit Account No. 19-4880 as authorized by the petition.

The instant petition is accompanied by a "Declaration" signed by Kumi Onodera and indicating that her surname was changed from Nagata to Onodera due to marriage. On the basis of all of the evidence now of record, it would be appropriate to accept the declaration as filed on 17 August 2004.

CONCLUSION

The petition is **GRANTED**.

Counsel's Deposit Account No. 19-4880 is being charged for the $270.00 balance of the petition fee, as described hereinabove.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **17 August 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 21 2005

Fulbright & Jaworski, LLP
600 Congress Ave.
Suite 2400
Austin, TX 78701

In re Application of:	:	
Ouellette et al.	:	
Serial No.: 10/504,883	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 13, 2004	:	FROM RECORD
Attorney Docket No.: **GOUD:051US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 27, 2005.

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

The request meets all the above stated requirements. The request was signed by Gwendoline Bruneau, on behalf of the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Fulbright & Jaworski, LLP, at the above address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

31 JAN 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK B. QUATT
SEALED AIR CORPORATION
P.O. BOX 464
DUNCAN, SC 29334

In re Application of KOKE	:
Application No.: 10/504,885	:
PCT Application No.: PCT/NZ02/00290	: DECISION ON PETITION
Int. Filing Date: 20 December 2002	: UNDER 37 CFR 1.137(b)
Priority Date Claimed: 21 December 2001	:
Attorney Docket No.: D-43358-01	:
For: BAG OPENING APPARATUS AND METHOD	:
	:

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (PTO) on 13 August 2004 is GRANTED.

BACKGROUND

On 20 December 2002, applicants filed international application PCT/NZ02/00290. The international application claims a priority date of 21 December 2001 and designates the United States. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 03 July 2003. The deadline to pay the basic national fee was thirty months from the priority date, that is 21 June 2004. The application became abandoned at midnight 21 June 2004 for failure to pay the basic national fee.

On 13 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, 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) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A payment of the basic national fee constitutes a proper reply for entry into the national stage.

Applicant's statement in the petition that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

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 E Smith

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Nathan Newhouse
Detailee
PCT Legal Administration
Telephone: 571-272-6095
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

Joseph S Tripoli
Thomson Licensing Inc
Patent Department
P O Box 5312
Princeton NJ 08543-5312

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Alain Durand et al. :
Application No. 10/504,897 : DECISION ON PETITION
Filed: August 18, 2004 :
Attorney Docket No. PF020014 US :

This is a decision on the petition, filed February 21, 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**.

This application was held abandoned for failure to reply to the Non-final Office action mailed June 21, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 17, 2008.

Petitioner asserts that the Office action dated June 21, 2007 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 and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272-4914.

This application is being referred to the Technology Center technical support staff of Art Unit 2132 for re-mailing the Office action of June 21, 2007. The period for reply will run from the mailing date of the Office action.

David Bucci
Petitions Examiner
Office of Petitions

01 SEP 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

01095
NOVARTIS
Corporate Intellectual Property
One Health Plaza 104/3
East Hanover, NJ 07936-1080

In re Application of	:	
GARCIA-ECHEVERRIA *et al*	:	
U.S. Application No.: 10/504,905	:	
PCT No.: PCT/EP2003/001698	:	**DECISION ON**
Int. Filing Date: 19 February 2003	:	**PETITION FOR REVIVAL**
Priority Date: 19 February 2002	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 4-32360A/32361	:	
For: ORGANIC COMPOUNDS	:	

Applicants' petition to revive under 37 CFR 1.137(b) filed on 12 July 2006 is hereby **GRANTED** as follows:

Applicants provide a sequence listing diskette with no errors detected by the Biotechnology Systems Branch of the Scientific and Technical Information Center of the USPTO. The $1,500.00 petition fee has been paid. Applicants made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

20 APR 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	DECISION ON
Richman et al	:	
Application No.: 10/504,921	:	
PCT No.: PCT/US03/04373	:	
Int. Filing Date: 14 February 2003	:	PETITION UNDER
Priority Date: 15 February 2002	:	
Attorney's Docket No.: 11068-087-999	:	
For: COMPOSITIONS AND METHODS ...	:	
RECOMBINANT VIRUS ASSAYS	:	37 CFR 1.10 (c)

This decision is in response to applicants' "REQUEST TO CORRECT FILING RECEIPT AND PETITION UNDER 37 C.F.R. 1.10(c) TO ACCORD FILING DATE" filed on 10 January 2006, requesting that the filing date of 17 August 2004 be changed to 16 August 2004 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

On 16 August 2004, petitioner purportedly 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 oath or declaration was filed at such time.

On 10 January 2006, applicants filed the present petition stating that the application was in fact deposited with the USPS on August 16, 2004 as evidenced by the "date in" box on the "Express Mail" Label no. EV456933260US instead of August 17, 2004 as specified on the stamped postcard receipt.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition was filed promptly. 37 CFR 1.10(c)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. EV456933260US was placed on the "Transmittal Letter" prior to the original mailing by "Express Mail." CFR 1.10(c)(2). Finally, the copy of the customer receipt of "Express Mail" Label No. EV 456933260US filed with the present petition identifies the day of deposit as "16 August 2004." 37 CFR 1.10(c)(3). Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED.**

The National Stage papers were received by the USPTO on 16 August 2004.

The filing receipt will be corrected to reflect that the National Stage papers were filed on 16 August 2004.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

-21 APR 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Crowell & Moring
Intellectual Property Group
Po Box 14300
Washington DC 20044-4300

In re Application of KASTELL et al. Application No.: 10/504,933 PCT No.: PCT/EP03/07104 Int. Filing Date: 03 July 2003 Priority Date: 12 July 2002 Attorney Docket No.: 028987.53132US For: COMPENSATING TANK FOR A COOLING CIRCUIT OF AN INTERNAL COMBUSTION ENGINE	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Request to Correct Inventorship Under 37 CFR 1.48", filed on 26 August 2004 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Dieter Zaremba 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 17 August 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.

On 26 August 2004, Applicant filed a request to correct the inventorship, to add Dieter Zaremba as an inventor. In addition to the $130 petition fee, Petitioner provided the statement of the inventor Mr. Zaremba in support of the correction of inventorship under 37 CFR 1.497(d), the written consent of the assignee and a declaration executed by the joint inventors.

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).

Applicants provided a statement, signed by Dieter Zaremba, stating that "I was erroneously omitted as an original named inventor in the international PCT application identified above without deceptive intent on my part". This statement satisfies item (1) of 37

CFR 1.497(d).

The processing fee of $130.00 has been paid, satisfying Item (2) above.

With regard to Item (3), a review of the application file reveals that an assignment of assignors interest was filed with the USPTO on 17 August 2004. Applicant has provided a "Written Consent of Dr. Ing. h.c.F. Porsche AG" (assignee) to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the addition of Dieter Zaremba as an inventor in this application.

Accordingly, applicant has met all of the requirements to add Dieter Zaremba as co-inventor in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Dieter Zaremba as co-inventor is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **17 August 2004.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 05/07/2010

Applicant	: Elmar Thurner	: DECISION ON REQUEST FOR
Patent Number	: 7657404	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/504,937	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **618** 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 : 11/06/08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10504945 Patent No.: 7425222 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
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: _____

Vasu Jagannathan SPE 1796

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#7

20 JAN 2006

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

In re Application of CHAWLA et al. Application No.: 10/504,973 PCT No.: PCT/US03/04902 Int. Filing: 18 February 2003 Priority Date: 20 February 2002 Attorney Docket No.: 071949-9901 For: RECEPTORS AND MEMBRANE-ASSOCIATED PROTEINS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's petitions under 37 CFR 1.47(a) to accept the application without the signatures of inventors Ann E. Gorvad and Anita Swarnakar filed in the United States Patent and Trademark Office (USPTO) on 17 August 2005. Applicant requests a three month extension of time, which is granted.

BACKGROUND

On 18 August 2004, applicant filed a transmittal letter requesting entry into the national stage along with the basic national fee. On 21 March 2005, a Notification of Missing Requirements was mailed indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), was required.

On 17 August 2005, in response to the Notification of Missing Requirements, applicants filed 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 signatures of inventor Anita Swarnakar and inventor Ann E. Gorvad. Applicants allege that Ms. Gorvad and Ms. Swarnakar refuse to sign the application. The petition included the requisite petition fee, a statements of facts regarding Anita Swarnakar's and Ann E. Gorvad's refusal to sign and a declaration signed by the 37 CFR 1.47(a) applicants.

DISCUSSION

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

Petitioner satisfied Items (1) and (3).

With respect to item (2) and the refusal of Ann E. Gorvad, Petitioner provides a Declaration of attorney Michele M. Simkin. Ms. Simkin states, in pertinent part, that on 09 June 2005, she sent a copy of the above identified application including a declaration to Ms. Gorvad's last known address via Federal Express. A copy of the letter and confirmation of Federal Express

delivery on 13 June 2005 was attached to the statement. Several further attempts to contact Ms. Gorvad were made by Christine Arthur, a legal assistant at Foley & Lardner, via telephone to no avail. Ms Simkin states that Ms. Gorvad has not responded to her correspondence as of the date of the petition. Applicant has provided sufficient evidence that Ann E. Gorvad's conduct constitutes a refusal to sign the application. Thus, with respect to Ann E. Gorvad, item (2) is satisfied.

With respect to Item (2) and the refusal of Anita Swarnakar to sign the application, Petitioner provides a Declaration of Michele Simkin, attorney for applicant. Ms. Simkin states, in pertinent part, that on 09 June 2005, she sent a copy of the above identified application including a declaration to Ms. Swarnakar's last known address via Federal Express. A copy of the letter and confirmation of delivery on 13 June 2005 was attached to the statement. Several further attempts to contact Ms. Swarnakar were made by Christine Arthur, a legal assistant at Foley & Lardner, via telephone to no avail. Ms. Simkin states that Anita Swarnakar has not responded to her correspondence as of the date of the petition. Applicant has provided sufficient evidence that Anita Swarnakar's conduct constitutes a refusal to sign the application. Thus, with respect to Anita Swarnakar. Item (2) is satisfied.

With respect to item (4), the nineteen (19) executed declarations were submitted on behalf of the joint inventors and the non-signing inventors with the 17 August 2005 petition. The declarations are acceptable and meet the requirements of 37 CFR 1.497(a) and (b). Item (4) has been satisfied.

As discussed above, the requirements of 37 CFR 1.47(a) have been met. 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 17 August 2005. The application has an international filing date of 18 February 2003 under 35 U.S.C. 363, and a date of 17 August 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Cynthia M. Kratz

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

Telephone: (571)272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 JAN 2006

Anita Swarnakar
30 Portola Drive
San Francisco, CA 94131

In re Application of CHAWLA et al. Application No.: 10/504,973 PCT No.: PCT/US03/04902 Int. Filing: 18 February 2003 Priority Date: 20 February 2002 Attorney Docket No.: 071949-9901 For: RECEPTORS AND MEMBRANE-ASSOCIATED PROTEINS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

Dear Ms. Swarnakar:

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
Office of PCT Legal Administration

Telephone: (571)272 -3286

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 JAN 2006

ANN E. GORVAD
2519 SYLVAN STREET
BELLINGHAM, WA 98226

In re Application of CHAWLA et al. Application No.: 10/504,973 PCT No.: PCT/US03/04902 Int. Filing: 18 February 2003 Priority Date: 20 February 2002 Attorney Docket No.: 071949-9901 For: RECEPTORS AND MEMBRANE-ASSOCIATED PROTEINS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

Dear Ms. Gorvad:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

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

11 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of:	:	
MALMBORG, Bengt	:	DECISION ON PETITION TO
U.S. Application No.: 10/504,984	:	REVIVE ABANDONED
PCT No.: PCT/SE03/00236	:	APPLICATION UNDER 37
International Filing Date: 13 February 2003	:	CFR 1.137(b)
Priority Date: 13 February 2002	:	
Attorney's Docket No.: 003301-170	:	
For: PLASTIC CAP AND METHOD OF MAKING	:	
THE SAME	:	

The petition to revive under 37 CFR 1.137(b) filed 19 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply (i.e., the U.S. National Phase Patent Application) 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).

Applicants have now submitted the small entity 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
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
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

DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Norbert Lobig	:	
Application No. 10/505,002	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO WITHDRAW
Attorney Docket No. 2002P01721 (NSN)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 2010.

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

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

0 3 DEC 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven L Highlander
Fulbright & Jaworski
Suite 2400
600 Congress Avenue
Austin, TX 78701

In re Application of	:	
SCHRAERMEYER, Ulrich	:	
Application No.: 10/505,030	:	DECISION ON
PCT No.: PCT/DE2003/000415	:	
Int. Filing Date: 12 February 2003	:	PETITION
Priority Date: 18 February 2002	:	
Attorney Docket No.: DEBE:041US	:	UNDER 37 CFR 1.182
For: THERAPY OF DISEASES ...	:	
CENTRAL NERVOUS SYSTEM	:	

This decision is in response to applicants' Request For Corrected Filing Receipt, filed with the United States Patent and Trademark Office on 27 July 2005. It has been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 12 February 2003, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The transmittal letter indicated that the paperswere a national phase entry of PCT/IB2003/000415, but accompanying papers indicated that the application was related to PCT/DE2003/000415.

The application was processed as a national phase of PCT/GB2003/000415.

On 27 July 2005, applicants submitted a petition under 37 CFR 1.182 to correct the national stage information in the above application to indicate it is a 371 filing of PCT/DE2003/000415.

DISCUSSION

Applicants have explained that the paperwork was intended as a national stage entry of PCT/DE2003/000415. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/DE2003/000415. The fee for a petition under 37 CFR 1.182, will be charged to deposit account no. 50-1212, as authorized.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the Office of the Patent Application Processing for continued processing consistent with this decision, including the mailing of a corrected filing receipt.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

24 FEB 2005

#5

UNITED STATES PATENT and TRADEMARK OFFICE

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

Catalyst Law Group
4330 La Jolla Village Drive, Ste. 220
San Diego, CA 92122

In re Application of	:	
Wuttke et al	:	DECISION ON
Application No.: 10/505,031	:	
PCT No.: PCT/EP03/01311	:	
Int. Filing Date: 10 February 2003	:	REQUEST UNDER
Priority Date: 15 February 2002	:	
Attorney's Docket No.: 8054-003-US	:	
For: USE OF PHYTOESTROGEN-CONTAINING	:	37 CFR 1.497(d)
EXTRACTS SELECTIVELY MODULATING	:	
ESTROGEN RECEPTOR BETA	:	

This is a decision on applicants' "DECLARATION UNDER 37 CFR 1.497(d) ERROR WITH NO DECEPTIVE INTENT IN OMITTING INVENTOR" filed on 23 November 2004, requesting adding inventor, Michael POPP, in the executed declaration.

BACKGROUND

On 10 February 2003, applicants filed international application No. PCT/EP03/01311 designating the United States and claiming a priority date of 15 February 2002. A copy of the intentional application was transmitted on 21 August 2003 to the USPTO from the International Bureau.

On 16 August 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, and the international application. No executed declaration or oath was submitted at such time.

On 23 November 2004, applicants filed an executed declaration and the present request to add inventor, Michael POPP, in the executed declaration because by error and without deceptive intent he was not named as an inventor in the international application PCT/EP03/01311.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(I); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied item (1) but not items (2) and (3) under 37 CFR 1.497(d).

With respect to item (1), a statement has been submitted by Michael Popp stating that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of $130.00 has not been provided.

With respect to item (3), there does not appeared to be a written consent of the assignee: BIONORICA AG, which is listed as the applicant in the published international application PCT/EP03/01311. Note MPEP 201.03.

Accordingly, the request does not meet the requirements under 37 CFR 1.497(d).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

13 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Catalyst Law Group
4330 La Jolla Village Drive, Ste. 220
San Diego, CA 92122

In re Application of	:	
Wuttke et al	:	DECISION ON
Application No.: 10/505,031	:	
PCT No.: PCT/EP03/01311	:	
Int. Filing Date: 10 February 2003	:	REQUEST UNDER
Priority Date: 15 February 2002	:	
Attorney's Docket No.: 8054-003-US	:	
For: USE OF PHYTOESTROGEN-CONTAINING	:	37 CFR 1.497(d)
EXTRACTS SELECTIVELY MODULATING	:	
ESTROGEN RECEPTOR BETA	:	

This is a decision on applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d)" filed on 29 March 2005.

BACKGROUND

In a decision from this Office mailed on 29 March 2005, the decision indicated that the request was dismissed because the request did not satisfy items (2) and (3) of 37 CFR 1.497(d).

On 29 March 2005, applicants filed the current communication, which included, *inter alia*, the request fee and consent from the assignee BIONORICA AG.

DISCUSSION

A review of the renewed request reveals that applicants have satisfied items (1) - (3) of 37 CFR 1.497(d).

In regard to item (1), Michael Pop states that the error in inventorship occurred without deceptive intent.

In regard to item (2), the processing fee of $130.00 has been paid.

In regard to item (3), the assignee BIONORICA AG consents to correction of inventorship to the above application and it has filed in the requisite papers establishing its right to take action under 37 CFR §3.73(b).

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **23 November 2004**.

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

03 AUG 2005

#6

UNITED STATES PATENT and TRADEMARK OFFICE

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

SCHNAPP, Karlyn A.
FROST BROWN TODD LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

In re Application of	:	DECISION ON RENEWED
DROTLEFF, Elizabeth et al	:	
Application No.: 10/505,041	:	
PCT No.: PCT/US02/03582	:	PETITION UNDER
Int. Filing Date: 06 February 2002	:	
Priority Date: 06 February 2001	:	
Attorney's Docket No.: 0513279	:	
For: OPTIMER PHOTONICS	:	37 CFR 1.137(b)

This decision is in response to petitioner's "Renewed Petition Under 37 CFR 1.137(b)," filed on 19 July 2005.

BACKGROUND

In a decision from this Office on 13 June 2005, the petition filed on 18 August 2004 was dismissed. The decision stated petitioner had not provided 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.

On 19 July 2005, petitioner filed the instant renewed petition under 37 CFR 1.137(b).

DISCUSSION

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

Petitioner has provided with the renewed petition item (3): the proper statement under 137(b)(3).

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **14 August 2004.**

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

13 JUN 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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

SCHNAPP, Karlyn A.
FROST BROWN TODD LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

In re Application of	:	DECISION ON
DROTLEFF, Elizabeth et al	:	
Application No.: 10/505,041	:	
PCT No.: PCT/US02/03582	:	PETITION UNDER
Int. Filing Date: 06 February 2002	:	
Priority Date: 06 February 2001	:	37 CFR 1.137(b)
Attorney's Docket No.: 0513279	:	
For: OPTIMER PHOTONICS	:	

This decision is in response to applicants' "PETITION FOR REINSTATEMENT OF RIGTS OF THE ... THE REFERRED TO IN ARTICLE 22" filed on 18 August 2004, which is being treated as a petition under 37 CFR 1.137(b). The petition fee of $1300.00 has been paid by check.

BACKGROUND

On 06 February 2002, this international application was filed, claiming an earliest priority date of 06 February 2001.

A Demand electing the United States was filed in this international application. 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 06 August 2003. This international application became abandoned with respect to the United States at midnight on 06 August 2003 for failure to pay the required basic national fee.

On 18 August 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, 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, and (2) the petition fee set forth in §1.17(m). In this application, no terminal disclaimer is required.

With respect to item (3), petitioner has not provided 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.

Consequently, the petition is deemed to not to satisfy requirement (3) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.137(b) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Failure to timely submit the proper reply will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

COPY MAILED

APR 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Elizabeth Drotleff et al	:	
Application No. 10/505,041	:	DECISION GRANTING PETITION
Filed: August 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 0513279	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 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 Election/Response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed December 20, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1712 to consider the reply received August 24, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 30 2010
OFFICE OF PETITIONS

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

In re Application of	:	
Elizabeth Drotleff et al	:	
Application No. 10/505,041	:	DECISION ON PETITION
Filed: August 18, 2004	:	
Attorney Docket No. 0513279	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed July 13, 2009, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received April 8, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

26 OCT 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

Ajay A. Jagtiani
JAGTIANI + GUTTAG
Democracy Square Business Center
10363-A Democracy Lane
Fairfax, VA 22030

In re Application of DADD, Fysh *et al* U.S. Application No.: 10/505,075 PCT No.: PCT/AU03/00229 Int. Filing Date: 24 February 2003 Priority Date: 22 February 2002 Attorney Docket No.: COCH-0082-US1 For: AN INSERTION DEVICE FOR AN ELECTRODE ARRAY	**DECISION ON PETITION UNDER 37 CFR 1.497(d)**

This is a decision on applicants' request to add Desmond McCusker as an inventor in the above-captioned national stage application filed 27 June 2005. This is treated as a request under 37 CFR 1.497(d).

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 an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to comply with extensions of time available pursuant to 37 CFR 1.136(a).

On 27 June 2005, applicants filed a response which was accompanied by, *inter alia*, a declaration executed by seven inventors, a $130.00 surcharge fee, a petition for a four-month extension of time and fee; a Supplemental Application Data Sheet; and authorization to charge any additional fees to Deposit Account No. 10-0233.

DISCUSSION

Applicants request that Desmond McCusker be added as inventor in the above-captioned national stage application of PCT/AU03/00229. A review of the international publication shows that there were only six joint inventors listed. Desmond McCusker was not recorded as an inventor. In addition, there is no record of a change in the inventorship pursuant to PCT Rule 92*bis* in the international application.

37 CFR 1.497(d) applies when the inventorship in a national stage application

filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(i); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The $130.00 fee has been charged to Deposit Account No. 10-0233 as authorized. Applicants have completed item (2).

However, applicants have not provided either the requisite statement from Desmond McCusker, or the written consent of the assignee (or addressed whether an assignment has been executed in the above-captioned national stage application). For these reasons, items (1) and (3) of 37 CFR 1.497(d) are not satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet satisfied.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) to add Desmond McCusker as an inventor is **DISMISSED** without prejudice.

In addition, the declaration submitted is defective. The declaration comprises four first pages and three second pages. Each first page and second page lists the same inventors, but executed separately. This indicates that the declarations were pieced together after their execution to create a composite declaration. While it is acceptable for inventors to execute separate copies of the declaration, applicants must submit the entire declaration as it was executed by each inventor.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants must address item (3) of 37 CFR 1.497(d) with any response. Extensions of time may be obtained under 37 CFR 1.136(a).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 MAY 2006

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ajay A. Jagtiani
JAGTIANI + GUTTAG
Democracy Square Business Center
10363-A Democracy Lane
Fairfax, VA 22030

In re Application of DADD, Fysh *et al* U.S. Application No.: 10/505,075 PCT No.: PCT/AU03/00229 Int. Filing Date: 24 February 2003 Priority Date: 22 February 2002 Attorney Docket No.: COCH-0082-US1 For: AN INSERTION DEVICE FOR AN ELECTRODE ARRAY	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.497(d)**

This is a decision on applicants' renewed request under 37 CFR 1.497(d) to add Desmond McCusker as an inventor in the above-captioned national stage application filed 10 March 2006.

BACKGROUND

On 26 October 2005, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants failed to provide all of the items required for a grantable petition. Applicants were given two months to respond with extensions of time available.

On 10 March 2006, applicants filed a response which was accompanied by, *inter alia*, a three-month extension with fee; an executed declaration: a "Statement from Additional Inventor Under § 1.497(d)(1)"; and a "Statement from Cochlear Limited."

DISCUSSION

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or

declaration must be accompanied by:

> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants failed to satisfy items (1) and (3) of 37 CFR 1.497(d) with their initial petition. Moreover, the declaration was deemed defective as it was a composite declaration. In the renewed response, applicants provided a declaration executed by all inventors which complies with 37 CFR 1.497(a) and (b). In addition, a statement by Desmond McCusker attesting that the error in inventorship occurred without deceptive intent completing item (1) of 37 CFR 1.497(d).

Petitioners also submitted a statement from Cochlear Limited consenting to the addition of Desmond McCusker as an inventor. The statement was signed by Jayne Andrews as Patent Manager of Cochlear Limited who is presumed to have the authority to sign for the corporation.[1]

However, applicants have not established that Cochlear Limited is the assignee of the subject application under 37 CFR 3.73(b). Specifically, applicants did not provide a copy of the recorded assignment or state the location of the assignment, *e.g.* reel and frame number. *See* 37 CFR 3.73(b)(1). For this reason, item (3) is not yet satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are not complete.

CONCLUSION

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

---

[1] In foreign countries, a person who holds the title "Manager" or "Director" is normally an officer and is presumed to have the authority to sign on behalf of the organization. *See* MPEP § 324. Cochlear Limited is listed with an Australian address in the international publication ("WO 00/71063")

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

08 JUN 2006

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ajay A. Jagtiani
JAGTIANI + GUTTAG
Democracy Square Business Center
10363-A Democracy Lane
Fairfax, VA 22030

In re Application of DADD, Fysh *et al* U.S. Application No.: 10/505,075 PCT No.: PCT/AU03/00229 Int. Filing Date: 24 February 2003 Priority Date: 22 February 2002 Attorney Docket No.: COCH-0082-US1 For: AN INSERTION DEVICE FOR AN ELECTRODE ARRAY	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.497(d)**

This is a decision on applicants' renewed request under 37 CFR 1.497(d) to add Desmond McCusker as an inventor in the above-captioned national stage application filed 01 June 2006.

BACKGROUND

On 17 May 2006, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 01 June 2006, applicants filed the renewed petition along with a copy of an assignment in the subject application.

DISCUSSION

Applicants previously completed items (1) and (2) of 37 CFR 1.497(d).

Regarding item (3), applicants provided a statement signed by a representative of Cochlear Limited consenting to the addition of Desmond McCusker as an inventor in the above-captioned application. However, applicants failed to establish that Cochlear Limited is the assignee of the subject application.

Applicants have now cured this defect.

Applicants submitted a copy of the Notice of Recordation of Assignment Document for the subject application identifying the reel and frame number of the

assignment and showing that the assignee is Cochlear Limited. This is sufficient to satisfy all the requirements of item (3) of 37 CFR 1.497(d).

All items of 37 CFR 1.497(d) are now complete.

CONCLUSION

Applicants' request to add Desmond McCusker as an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) is **GRANTED**.

The declaration filed 10 March 2006 is now in compliance with 37 CFR 1.497(a) and (b). Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 February 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 10 March 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-06

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

FEB 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Caleb Myers	:	DECISION ON PETITION TO
Application No. 10/505,081	:	WITHDRAW HOLDING OF
Filed: 19 August, 2004	:	ABANDONMENT
Atty. Docket No. 03257.000001	:	

This is a decision on the "Request for Withdrawal of Erroneously Issued Notice of Abandonment" filed on 23 January, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 28 September, 2005, for failure to timely respond to the non-final Office action mailed on 27 June, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 11 January, 2006.

Petitioner asserts that an amendment and three (3) month extension of time were timely filed. In support, petitioner has supplied a copy of an amendment to the specification and a three (3) month extension of time, the first page of each of which contains a Certificate of Transmission dated 27 December, 2005, and signed by petitioner's registered patent attorney, Lock See Yu-Jahnes. The present petition, signed by attorney Yu-Jahnes, states that "[a]pplicant submits that a response to the Office Action of June 27, 2005, was timely filed."

As the instant petition was signed by attorney Yu-Jahnes, the Office, in accepting this petition, is construing the statement petition to mean that the practicioner has personal knowledge

that the correspondence was mailed on the date specified on the Certificate of Mailing or Transmission. Petitioner must inform the Office if this is an incorrect interpretation.

As petitioner has provided convincing evidence that an amendment and extension of time were timely filed on 27 December, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is being referred to Technology Center Art Unit 3671 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROTHWELL, FIGG, ERNST &
MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,425,429	: DECISION ON REQUEST
Dirk Bumann	: FOR
Issue Date: September 16, 2008	: RECONSIDERATION OF
Application No. 10/505,082	: PATENT TERM ADJUSTMENT
Filed: August 19, 2004	:
Attorney Docket No. 2923-655	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)" filed November 17, 2008. Patentee requests that the patent term adjustment indicated in the patent be corrected from four hundred forty-eight (448) to six hundred forty-two (642) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **Dismissed**.

On September 16, 2008, the above-identified application matured into U.S. Patent No. 7,425,429. The instant request for reconsideration 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 448 days. Patentee requests correction of the patent term adjustment to increase the patent term adjustment to 642 days in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR 1.702(b).

Patentee acknowledges that the ability to accumulate additional patent term adjustment against the three-years pendency ended with the filing of an RCE on February 29, 2008. The filing of the RCE does not otherwise affect PTA. However, patentees contend that they are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704.

In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 0 days for applicant delay is not in dispute. Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (194 days) and the period of Examination Delay (448 days) to the extent that these periods of delay are not overlapping. As such, patentees assert entitlement to a patent term adjustment of 642 days (194 + 448).

It should be noted that the calculation of any three year delay for the issuance of an application filed pursuant to 35 USC 371 is calculated based upon the commencement date. In this instance the commencement date of the application was August 19, 2004. Thus, the application was pending three years and 194 days until the filing of the RCE on February 29, 2008.

The Office finds the entire period of 194 days overlaps with the days of patent term adjustment accorded prior to the issuance of the patent. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of

> adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the

rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing or commencement date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

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

As such, the period for over 3 year pendency does not as argued by patentees overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing or commencement date of the application.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154(b)(1)(A) (the "fourteen-four-four-four-" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii). All of these 194 days overlap with the 448 days for Office delay in issuing the patent. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the instant patent is not entitled to further adjustment.

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

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

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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

PATENT DEPARTMENT
ROVI CORPORATION
2830 DE LA CRUZ BOULEVARD
SANTA CLARA, CA 95050

Mail Date: 04/21/2010

Applicant	: Philippe Marcel Henri Selve	: DECISION ON REQUEST FOR
Patent Number	: 7539394	: RECALCULATION of PATENT
Issue Date	: 05/26/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,087	: OF WYETH
Filed	: 08/13/2004	:
		:

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.

15 SEP 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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

PATENTANWAELTE LICHTI + PARTNER GBR
POSTFACH 41 07 60
D-76207
KARLSRUHE DE GERMANY

In re Application of	:	DECISION ON
NAGEL, Dieter	:	
Application No.: 10/505,091	:	
PCT No.: PCT/EP04/00152	:	
Int. Filing Date: 13 January 2004	:	PETITION UNDER
Priority Date: 15 January 2003	:	
Attorney Docket No.: 20887.7	:	
For: PACKING MACHINE	:	37 CFR 1.181

This decision is in response to the "TRANSMITTAL LETTER FOR 35 USC 371 NOTICE OF ACCEPTANCE CORRECTION" filed 23August 2005, which is being treated as a petition under 37 CFR 1.181 requesting that the correct date of completion of all USC 371 requirements be changed from 8/19/04 to 7/15/05.

BACKGROUND

On 13 January 2004, this international application was filed, claiming an earliest priority date of 15 January 2003. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 15 July 2005.

On 19 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), a copy of the international application. 35 U.S.C. 371(c)(2), and an executed declaration 35 U.S.C. 371(c)(4).

On 02 August 2005, 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 19 August 2004, and a date of completion of all 35 USC 371 requirements of 15 July 2005.

On 23 August 2005, applicant filed the current petition pursuant 37 CFR 1.181 request a corrected filing receipt, stating that the date of completion of all 35 USC 371 requirements is 19 August 2004.

DISCUSSION

The date that applicant competed the requirements under section (c) of 35 USC 371 is 19 August 2004 as indicated in the background section.

Applicant, however, did not elect in the transmittal letter an express request to begin national examination procedure on 19 August 2004[1] rather than delay examination until the expiration of the applicable time limit set in 35 USC 371(b), which would be on 15 July 2005.

Since applicant did not choose express request commencement under section (f) of 35 USC 371, then section (b) of 35 USC 371 applied for national stage commencement of this application. Accordingly, 15 July 2005 is the date of completion of all 35 USC 371 requirements because it is the date that the applicable sections of 35 USC 371 were met.

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

[1] The date of receipt of 35 USC 371(c)(1), (c)(2), and (c)(4) requirements.

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

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, NW., Suite 1200
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Hiroyuki Ehara	: DECISION ON REQUEST FOR
Patent Number	: 7580834	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VINCENT LAUER
1 VILLA DE BEAUTE
NOGENT SUR MARNE 94130 FR FRANCE

COPY MAILED
OCT 27 2008
OFFICE OF PETITIONS

In re Application of Vincent Lauer Application No. 10/505124 Filing or 371(c) Date: 08/18/2004 Title of Invention: CONFOCAL OPTICAL SCANNING DEVICE	: : : : : :	ON PETITION

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 18, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed March 11, 2008. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on June 12, 2008. A Notice of Abandonment was mailed August 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee; and (3) a proper statement of unintentional delay[1].

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

[1] Applicant is advised that no terminal disclaimer ("TD") is required for applications filed on or after June 8, 1995. Applicant may file a petition to withdraw the TD under 37 CFR 1.182, and petition fee.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 3, 2008

TO SPE OF : ART UNIT 3754
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/505134 No.: 7293674

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 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 to enter/change

Kevin P. Shaver

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080825

DATE : September 11, 2008

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction on Patent No.: 7,393,337

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: /T. Zalukaeva/ **Art Unit** 3761

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James Remenick
Powell Goldstein LLP
901 New York Avenue, NW, Third Floor
Washington DC 20001-7222

NOV 0 8 2005

In re Application of:	:	
Tilmann B. Walk	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/505,154	:	
Filed: August 20, 2004	:	
Attorney Docket No.: **532622008300**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 23, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Connolly Bove Lodge & Hutz, LLP. was filed on May 27, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Connolly Bove Lodge & Hutz, LLP
P.O. Box 2207
Wilmington DE 19899

21 NOV 2005

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Chiron Corporation
Intellectual Property-R440
P.O. Box 8097
Emeryville, CA 94662-8097

In re Application of	:
Xiao, et al.	:
Application No.: 10/505,159	: DECISION
PCT No.: PCT/US03/05874	:
Int. Filing Date: 25 February 2003	:
Priority Date: 25 February 2002	:
Attorney's Docket No.: 072121-0397	:
For: INTRASANAL ADMINISTRATION OF MC4-R	:
ANTAGONISTS	:

This decision is in response to applicant's "OFFICIAL REQUEST FOR COPY OF NOTICE TO FILE MISSING REQUIREMENTS AND RESET OF STATUTORY RESPONSE PERIOD" which is being treated as a petition under 37 CFR 1.181, filed on the 12 August 2005.

BACKGROUND

On 25 February 2003, applicant filed international application PCT/US03/05874 that claimed priority of earlier United States provisional applications, the earliest of which was filed 25 February 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 25 August 2004.

On 20 August 2004, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, an information disclosure statement, an Application Data Sheet and the basic national fee of $730 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/505,159.

On 21 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed applicant a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" which required a signed oath or declaration. This notification set a two month time period for response which was extendable under 37 CFR 1.136(a).

On 12 August 2005, applicant filed the current communication requesting that the response period be restarted for 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).

DISCUSSION

MPEP section 711.03 establishes the requirement to show non-receipt of an Office action. It states, in part:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

Applicant provided a customer number on filing. As a result, the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" was mailed to Chiron Corporation. Therefore, Chiron Corporation must provide the documentation as set out in the above section of the MPEP.

CONCLUSION

The petition is **DISMISSED without prejudice**.

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

Debra S. Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (703) 308-3401
Facsimile: (703) 308-6459

28 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James H. Beusse
Beusse Brownlee Wolter Mora & Maire, P.A.
390 N. Orange Avenue, Suite 2500
Orlando, FL 32801

In re Application of HOUGE, et al. PCT No.: PCT/US03/05251 Application No.: 10/505,197 Int. Filing Date: 24 February 2003 Priority Date: 22 February 2002 Atty. Docket No.: Houge 37-4-33/281 For: MONITORING AND CONTROL OF A FABRICATION PROCESS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Petition Regarding Unavailability of Inventor" filed 10 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 February 2003, applicant filed international application PCT/US03/05251, which claimed priority of an earlier application filed 22 February 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 22 August 2004.

On 19 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).

On 08 April 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 10 June 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor John M. McIntosh.

DISCUSSION

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

inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

Regarding item (1), applicant has provided payment of the petition fee.

As to item (2), applicant has filed a signed declaration from Shirley Goff detailing the attempts to locate the non-signing inventor accompanied by supporting exhibits. Specifically, the declaration shows that applicant has mailed a complete set of application papers to the inventor's last known address and that the parcel was returned as unclaimed. Ms. Goff states that she has also sought a current address for Mr. McIntosh through an internet search engine and supplied the results of the internet search.

Regarding item (3), applicant has supplied a statement of the last known address of John M. McIntosh.

As to item (4), applicant's filing includes a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of John M. McIntosh. Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 24 February 2003 under 35 U.S.C. 363, and will be given a date of **10 June 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

UNITED STATES PA
TENT AND TRADEMARK OFFICE

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

Date Mailed : May 9, 2007
Patent No. :7,175,210, B2
Ser. No. :10/505202
Inventor(s) :Udo Orzech, et al.
Issued :February 13, 2007
Title: LOCK, ESPECIALLY FOR AUTOMOTIVE DOORS, FLAPS OR THE LIKE

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: (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.

Magdalene Talley
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116 or 125

Friedrich Kueffner
317 Madison Ave., Ste. 910
New York, NY 10017

CBN/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

COPY MAILED

OCT 2 6 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,175,210 :
Issue Date: February 13, 2007 :
Application No. 10/505,202 :
Filed: March 7, 2005 :
Attorney Docket No. BM-157/PCT :

This is a decision on the petition filed July 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Huf Hülsbeck & Fürst GmbH & Co. KG, Velbert (DE); DaimlerChrysler AG, Stuttgart (DE)" and that the incorrect assignee's name was 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 correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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. Friedrich Kueffner 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. Friedrich Kueffner desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted

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

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.

JoAnne Burke
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.g

Date Mailed: April 28, 2009
Patent No. :7,302,836 B2
Ser. No. :10/505215
Inventor(s) :Yutaka Hattori
Title :METHOD FOR DETECTING STRAIN STATE OF TIRE, DEVICE FOR DETECTING STRAIN STATE, AND THE TIRE

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

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

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

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

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

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Knobbe, Martens,
Olson & Bear, LLP
2040 Main Street, 14th Fl.
Irvine, CA 92614

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

NOV 24 2009

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Patent No. 7,302,836
Issued: December 4, 2007
Application No. 10/503,215
Filed: August 20, 2004
Attorney Docket Number: IPS1.032APC

ON PETITION

This is a decision on the REQUEST TO CORRECT THE ASSIGNMENT UNDER 37 CFR 3.81(b)[1], filed May 18, 2009, to correct the assignee's name on the front of the Patent. The petition is treated under .

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.

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.

---

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

Office assignment records reflect that **YOKOHAMA RUBBER 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 fee for the certificate of correction was previously charged to the credit card provided. The petition fee in the amount of $130 has been charged to deposit account no. 11-1410.

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

29 MAR 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

In re Application of BERARD et al	:	
U.S. Application No.: 10/505,248	:	
PCT Application No.: PCT/US03/03046	:	
Int. Filing Date: 31 January 2003	:	DECISION
Priority Date Claimed: 01 February 2002	:	
Attorney Docket No.: I4060/260859 (IRC301)	:	
For: CHEMICAL COMPOUNDS AND	:	
METHODS FOR REMOVING DYE	:	

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 20 August 2004.

BACKGROUND

On 31 January 2003, applicant filed international application PCT/US03/03046, which claimed priority of an earlier United States application filed 01 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 01 August 2004.

International application PCT/US03/03046 became abandoned as to the United States for failure to timely pay the basic national fee.

On 20 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 31 January 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 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
www.uspto.gov

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

COPY MAILED

FEB 13 2008

OFFICE OF PETITIONS

In re Application of :
Francois Romagne et al :
Application No. 10/505,252 : ON PETITION
Filed: August 19, 2004 :
Attorney Docket No. INN-112 :

This is a decision on the petition filed, September 14, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 8, 2007, which set a shortened statutory period for reply of three (3) months. Two months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 9, 2008.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on July 9, 2007.

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

This matters is being referred to Technology Center AU 1651 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Harnes, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

MAILED

SEP 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Iwan Roland Rasa et al.	:	
Application No. 10/505,253	:	DECISION ON PETITION
Filed: August 18, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2009.

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 Harness, Dickey & Pierce, P.L.C. has been revoked by the applicant of the patent application on August 5, 2009. 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 until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Iwan Roland
Nousha Rasa
CH-8505
Pfyn, Switzerland

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/505,253	08/18/2004	Iwan Roland Rasa	

CONFIRMATION NO. 3909

POWER OF ATTORNEY NOTICE

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

OC000000037863579

Date Mailed: 09/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2009.

- 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).

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

07 FEB 2006

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

Raynard Yuro
Merck & Co., Inc.
Patent Department, RY60-30
P.O. Box 2000
126 East Lincoln Avenue
Rahway, NJ 07065-0970

In re Application of	:	
BUDHU, et al.	:	
Application No.: 10/505,257	:	DECISION ON PETITION
PCT No.: PCT/US03/05947	:	
Int. Filing Date: 27 February 2003	:	UNDER 37 CFR 1.10(c)
Priority Date: 01 March 2002	:	
Atty. Docket No.: 21044P	:	
For: AMINOALKYLPHOSPHONATES AND	:	
RELATED COMPOUNDS AS EDG RECEPTOR	:	
AGONISTS	:	

This is a decision on applicant's "Petition to Correct Filing Date Pursuant to 37 C.F.R. § 1.10(c)" filed 27 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 February 2003, applicant filed international application PCT/US03/05947 which claimed priority to an earlier U.S. application filed 01 March 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 September 2004.

On 12 January 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 19 August 2004.

On 27 January 2006, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 20 August 2004.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the

correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of "08/20/04 5:00pm." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 27 February 2003 under 35 U.S.C. 363 and a date of **20 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 12 January 2006 indicating a date of 19 August 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating 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

15 FEB 200

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
UITTENBOGAARD et al.	:	NOTIFICATION
Application No.: 10/505,269	:	
PCT No.: PCT/IB03/00172	:	
Int. Filing Date: 21 January 2003	:	
Priority Date: 25 February 2002	:	
Attorney's Docket No.: NL 020145	:	
For: HIGH-FREQUENCY SIGNAL SWITCHING	:	

This is a decision in response to applicant's "REQUEST FOR SERIAL NUMBER AND FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) via facsimile transmission on 28 December 2004.

On 21 January 2003, applicant filed international application PCT/IB03/00172, which designated the US and claimed a priority date of 25 February 2002. A copy of the international application was communicated to the USPTO 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 25 August 2004.

On 20 August 2004, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of the inventor.

On 28 December 2004, applicant filed the instant "REQUEST FOR SERIAL NUMBER AND FILING RECEIPT".

The submission for entry into the national stage in the United States filed 20 August 2004 has been assigned application number 10/505,269. An Official Filing Receipt will be issued in due course.

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

27 AUG 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Frishauf Holtz Goodman & Chick PC
767 Third Avenue
25th Floor
New York NY 10017-2023

In re Application of SALKINER et al. Serial No.: 10/505,283 Filing Date: 18 August 2004 Attorney Docket No.: 04545/LH For: MAGNETO-MASSAGE SYSTEM	: : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition for Revival of an Application for Patent Unintentionally [Abandoned] Under 37 CFR § 1.137(b)" filed on 18 August 2004 in the above referenced application. The Petition is **GRANTED** as discussed below.

BACKGROUND

On 03 July 2002, applicant filed international application PCT/IL02/00543, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 January 2003. The expiration of the thirty-month period for paying the basic national fee for entry into the national stage in the United States was 13 January 2004.

On 18 August 2000, applicants submitted application papers including a Transmittal Letter requesting filing the international application PCT/IL02/00543 pursuant to 37 CFR 1.53(b), accompanied by a specification, including claims and drawings, the instant petition to revive the international application as to the United States under 37 CFR 1.137(b) and requisite petition fee. Inserted at the beginning of the specification, applicant states: "This application is a Continuation of PCT/IL02/00543 filed July 3, 2002, the entire contents of which are incorporated herein by reference." The application was assigned serial no. 10/505,283 and is considered filed under 35 U.S.C. 111.

DISCUSSION

The transmittal letter filed on 18 August 2004 did not identify the application as a national stage application being filed under 35 U.S.C. 371. The specification submitted with the transmittal letter indicated that the filing was a continuation application and thus should have been considered as filed under 35 U.S.C. 111. Since the application is deemed to have been filed under 35 U.S.C. 111, international application PCT/IL02/00543 is abandoned with respect to the United States.

The filing of the continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c). International application PCT/IL02/00543 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 10/505,283.

Applicant's statement that "the entire delay in filing said Continuation of said International application from the due date of July 13, 2004 until the filing of a grantable Petition Under 37 CFR 1.137 was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office. All of the requirements of 37 CFR 1.137(b) for revival have been submitted.

Applicants are entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/505,283) and the international application (PCT/IL02/00543) designating the United States were copending on 18 August 2004 In order to obtain benefit of the earlier international application, applicants amended the beginning of the specification of this application by inserting a proper reference to the parent international application with the statement: "This is a Continuation of PCT/IL02/00543 filed July 3, 2002, the entire contents of which are incorporated herein by reference."

CONCLUSION

The petition to revive the unintentionally abandoned international application is **GRANTED**.

U.S. application 10//505,283 is NOT the national stage application of international application PCT/IL02/00543. Applicants have amended the first sentence of the specification accordingly.

This application is being returned to Office of Initial Preliminary Examination (OIPE) for further processing in accordance with this decision, including according a filing date of 18 August 2004. The application will then be examined in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703)306-5467

01 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David A. Guerra
933 Oleander Way South, Suite 4
South Pasadena, FL 33707

In re Application of: ALEXEEV, Andrey, Mikhaylovich, et al. U.S. Application No.: 10/505,294 PCT No.: PCT/RU03/00042 International Filing Date: 04 February 2003 Priority Date: 21 February 2002 Attorney's Docket No.: APO29-04 For: METHOD FOR CUTTING NON-METALLIC MATERIALS AND DEVICE FOR CARRYING OUT SAID METHOD	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 January 2005 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).

Applicant has now submitted the small entity 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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 January 2005.

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

Morgan & Finnegan
3 World Financial Center
New York, NY 10281-2101

COPY MAILED

JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Jacob Waugh et al.	:	
Application No. 10/505,299	:	DECISION ON PETITION
Filed: August 20, 2004	:	TO WITHDRAW
Attorney Docket No. 4649-4007	:	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 3, 2006.

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

A review of the file record indicates that the power of attorney to Morgan and Finnegan has been revoked by the assignee of the patent application on November 27, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **King & Spalding**
1185 Avenue of the Americas
New York, NY 10036-4003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of
Todd A. Loeffelholz et al
Application No. 10/505,312
Filed: August 10, 2005
Attorney Docket No. 14121/5

ON PETITION

This is a decision on the petition filed January 7, 2010 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed October 6, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 7, 2010.

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

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen M Haracz
Bryan Cave
1290 Avenue of the Americas
New York NY 10104-3300

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of	:
Bardroff et al.	:
Application No. 10/505,313	: ON APPLICATION FOR
Filed: March 7, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No. F2842 US S3	:
(C018016/0180	:
Title: ANTI-AMYLOID BETA	:
ANTIBODIES	:

This is a decision on the "REQUEST FOR RECONSIDREATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed October 16, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred ninety-one (291) days, not ninety-five (95) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for review of the patent term adjustment is **Dismissed**.

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

On August 21, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 95 days.

Applicants dispute the 198 day reduction. Applicants contend that the July 2, 2008 response to the January 28, 2008 Office action did have an omission. Further applicants contend that the supplemental response submitted on July 28, 2008 also did not contain an omission. Thus, the 198 day reduction is not warranted.

Applicants contend that the reduction 198 days should be removed because neither reply included an omission. Instead applicants contend that the responses were clarifying amendments and not required based upon an omission.

The Office has considered applicants' argument but does not find it persuasive. Applicants essentially seek to reopen prosecution after prosecution has closed. To the extent petitioner believed that the Notice of Non-Compliant amendment were mailed in error, applicants recourse was to file a petition seeking review of the Notice and or the Office actions pursuant to 37 CFR 1.181 (a)(3). Nor is the Office convinced that the final Office action acknowledges that the replies did not contain an omission. As such, the 198 day reduction for the submission of the supplemental replies on July 28, 2008 and January 16, 2009 is warranted. The time period runs from the day after the date the reply having an omission (July 3, 2008) and ending on the date that the reply or other paper correcting the omission was filed (January 16, 2009).

Further review of the record shows that an additional reduction of 90 days pursuant to 37 CFR 1.704(c)(7) is required. In response to the Restriction Requirement mailed on June 5, 2007, applicants submitted a non-compliant response on July 27, 2007. A Notice of Non-Compliant Amendment was mailed on October 18, 2007. A response to the Notice was submitted on October 25, 2007.

Pursuant to 37 CFR § 1.704(c), 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:

(7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

Thus, the reduction of 90 days for the delay from the filing of the initial response on July 28, 2007, to the filing of the response on October 25, 2007, is warranted.

In light of the fact that the 10 day reduction pursuant to 37 CFR 1.704 (c)(8) overlaps with the 90 day reduction, the 10 day reduction will be removed and the 90 day reduction will be entered.

As such the total number of days of applicants' delay at the time of the mailing of the Notice of Allowance is 379 days (90 + 19 + 65 + 198 + 5 + 2).

The total number of days of Office delay at the time of the mailing of the Notice of Allowance is 394 days.

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

---

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

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is fifteen (15) days.

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

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

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

Anthony Knight
Director
Office of Petitions

22 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

D. Peter Hochberg
6th Floor
1940 E. 6th Street
Cleveland, OH 44114-2294

In re Application of	:	
RADEMACHER, et al.	:	
U.S. Application No.: 10/505,317	:	
PCT No.: PCT/EP03/01052	:	
Int. Filing Date: 04 February 2003	:	COMMUNICATION
Priority Date: 21 February 2002	:	
Attorney Docket No.: RO0861US	:	
For: FILM-SHAPED OR WAFER-SHAPED	:	
PHARMACEUTICAL PREPARATION WITH	:	
MASKED TASTE	:	

This Communication is in response to applicant's correspondence filed 31 January 2006 requesting a corrected "Notice of Acceptance of Application."

BACKGROUND

On 04 February 2003, applicant filed international application PCT/EP03/01052, which claimed priority of an earlier application filed 21 February 2002. Pursuant to 37 CFR 1.492, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2004.

On 20 August 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the full, U.S. basic national fee.

On 06 April 2005, applicant was mailed a "Notification of Acceptance of Application" (Form PCT/DO/EO/903) indicating a 371 (c)(1), (c)(2) and (c)(4) date of 20 August 2004.

On 20 April 2005, applicant filed a letter accompanied by an English language combined declaration and power of attorney.

On 18 January 2006, applicant was mailed a "Withdrawal of Previously Sent Notice" withdrawing the Form PCT/DO/EO/903 mailed 06 April 2005 accompanied by a new "Notification of Acceptance of Application" indicating a 371 (c)(1), (c)(2) and (c)(4) date of 20 August 2004 and a date of completion of all 35 U.S.C. 371 requirements of 25 April 2005.

On 31 January 2006, applicant filed the present request.

DISCUSSION

A review of the published international application, as well as other information from the International Bureau (IB) shows that applicant provided a properly executed declaration of the inventors at the time of filing the international application. As such, all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied with applicant's initial National stage filing on 20 August 2004.

CONCLUSION

The "Notification of Acceptance of Application" (Form PCT/DO/EO/903) mailed 18 January 2006 is hereby **VACATED**.

This application will be given an international application filing date of 04 February 2003 and a date of **20 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). In addition, 20 August 2004 is considered the date of completion of all 35 U.S.C. 371 requirements and will be indicated on a newly mailed Form PCT/DO/EO/903.

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

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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

31 JAN 2006

Stephen A. Soffen
Dickstein Shapiro Morin & Oshinsky, LLP
2101 L Street NW
Washington, DC 20037-1526

In re Application of	:	
BETSON	:	
Application No.: 10/505,327	:	
PCT No.: PCT/IE03/00027	:	DECISION ON PETITION
Int. Filing Date: 21 February 2003	:	
Priority Date: 21 February 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: M0025.0312/P312	:	
For: AN ACTUATOR	:	

BACKGROUND

On 31 March 2005, applicant was mailed a communication informing applicant that the declaration filed 10 February 2005 was not in compliance with 37 CFR 1.497. Applicant was afforded the one month, or the extendable time available from the Form PCT/DO/EO/905 mailed 28 January 2005 to file a compliant oath or declaration.

On 31 August 2005, applicant filed the present response which is being treated as a petition under 37 CFR 1.137(b). As authorized, the $750.00 petition fee will be charged to deposit account number 04-1073.

DISCUSSION

The petition to revive under 37 CFR 1.137(b) filed 31 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "Applicant respectfully states that such abandonment was unintentional and hereby petitions to revive the application on that basis" is being interpreted to mean that the entire delay in providing a compliant declaration in response to the Form PCT/DO/EO/905 from the due date for filing a proper reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a compliant declaration executed by the sole inventor. 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 were satisfied with the filing of an executed declaration.

The application has an international filing date of 21 February 2003 under 35 U.S.C. 363 and will be given a date of **31 August 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

30 JAN 2008

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

In re Application of KIM et al	:	
U.S. Application No.: 10/505,328	:	
PCT Application No.: PCT/KR02/02033	:	
Int. Filing Date: 31 October 2002	:	DECISION
Priority Date Claimed: 22 February 2002	:	
Attorney Docket No.: 02730.0020.PCUS00	:	
(300602004700)	:	
For: CONSTRUCTION OF NOVEL STRAINS...	:	

This is in response to applicant's "Petition to Withdraw Abandonment Pursuant to MPEP § 711.03(c)IA Failure to Receive Office Action" filed 22 January 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 31 October 2002, applicant filed international application PCT/KR02/02033, which claimed priority of an earlier Korea application filed 22 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2004 (22 August 2004 was a Sunday).

On 23 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 21 June 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 a copy of the sequence listing in computer readable form is required.

On 16 November 2005, the agent of record filed a request to withdraw as attorney and a change of correspondence address.

On 25 November 2005, applicant filed a copy of the sequence listing in computer readable form.

On 21 February 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which identified errors in the copy of the sequence listing in computer readable form filed 25 November 2005.

On 27 March 2006, applicant filed a substitute copy of the sequence listing in computer readable form.

On 26 April 2007, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which identified errors in the copy of the sequence listing in computer readable form filed 27 March 2006.

On 14 November 2007, 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 to Comply mailed 26 April 2007.

On 22 January 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 21 February 2006 set a one month, non-extendable time limit for reply. Although the response to the Notification of Defective Response was timely filed (see certificate of mailing on 21 March 2006), the response contained errors[1] in the sequence listing, and thus did not constitute a proper reply to the Notification of Defective Response. Because a proper reply to the Notification of Defective Response was not furnished within the time limit set by the Notification of Defective Response, the present application became abandoned. Because the application was already abandoned, the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) was sent in error.

CONCLUSION

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

The Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) mailed 26 April 2007 is hereby VACATED.

[1] A copy of the sequence listing error report is attached to this decision.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 November 2007 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 Notification of Abandonment (Form PCT/DO/EO/909) which should indicate that the application is abandoned for failure to timely file a proper reply to the Notification of Defective Response (Form PCT/DO/EO/916) mailed 21 February 2006.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: copy of Sequence Listing Error Report

STIC Biotechnology Systems Branch

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: 10/505,328A
Source: PCT
Date Processed by STIC: 4/28/06

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 4.4.0 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 01/14/05):** U.S. Patent and Trademark Office, Mail Stop Sequence, Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314

Revised 01/10/06

PCT

RAW SEQUENCE LISTING DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:57

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

```
     2 <110> APPLICANT: Korea Advanced Institute of Science and Technology
     4 <120> TITLE OF INVENTION: CONSTRUCTION OF NOVEL STRAINS CONTAINING MINIMIZING
     5       GENOME BY Tn5-COUPLED Cre/loxP EXCISION SYSTEM
     7 <130> FILE REFERENCE: 02730.0020.PCUS00
     9 <140> CURRENT APPLICATION NUMBER: 10/505;328A
C--> 11 <141> CURRENT FILING DATE: 2004-08-23
    11 <150> PRIOR APPLICATION NUMBER: PCT/KR02/02033
    12 <151> PRIOR FILING DATE: 2002-10-31
    14 <150> PRIOR APPLICATION NUMBER: KR 10-2002-0009647
    15 <151> PRIOR FILING DATE: 2002-02-22
    17 <160> NUMBER OF SEQ ID NOS: 13
    19 <170> SOFTWARE: KopatentIn 1.71
    21 <210> SEQ ID NO: 1
    22 <211> LENGTH: 2437
    23 <212> TYPE: DNA
    24 <213> ORGANISM: Artificial Sequence
    26 <220> FEATURE:
    27 <223> OTHER INFORMATION: chemically synthesized TnKGloxP
    30 <400> SEQUENCE: 1
    31 attcaggctg cgcaactgtt gggaagggcg atcggtgcgg gcctcttcgc tattacgcca      60
    33 gctgtctctt atacacatct caaccatcat cgatgaattc gagctcggta cccgggttga     120
    35 actgcggatc ttgcggccgc aaaaattaaa aatgaagttt tgacggtatc gaaccccaga     180
    37 gtcccgctca gaagaactcg tcaagaaggc gatagaaggc gatgcgctgc gaatcgggag     240
    39 cggcgatacc gtaaagcacg aggaagcggt cagcccattc gccgccaagc tcttcagcaa     300
    41 tatcacgggt agccaacgct atgtcctgat agcggtccgc cacacccagc cggccacagt     360
    43 cgatgaatcc agaaaagcgg ccattttcca ccatgatatt cggcaagcag gcatcgccat     420
    45 gggtcacgac gagatcctcg ccgtcgggca tccgcgcctt gagcctggcg aacagttcgg     480
    47 ctggcgcgag cccctgatgc tcttcgtcca gatcatcctg atcgacaaga ccggcttcca     540
    49 tccgagtacg tgctcgctcg atgcgatgtt tcgcttggtg gtcgaatggg caggtagccg     600
    51 gatcaagcgt atgcagccgc cgcattgcat cagccatgat ggatactttc tcggcaggag     660
    53 caaggtgaga tgacaggaga tcctgccccg gcacttcgcc caatagcagc cagtcccttc     720
    55 ccgcttcagt gacaacgtcg agcacagctg cgcaaggaac gcccgtcgtg gccagccacg     780
    57 atagccgcgc tgcctcgtct tggagttcat tcagggcacc ggacaggtcg gtcttgacaa     840
    59 aaagaaccgg gcgcccctgc gctgacagcc ggaacacggc ggcatcagag cagccgattg     900
    61 tctgttgtgc ccagtcatag ccgaatagcc tctccaccca agcggccgga gaacctgcgt     960
    63 gcaatccatc ttgttcaatc atgcgaaacg atcctcatcc tgtctcttga tccactagat    1020
    65 tattgaagca tttatcaggg ttattgtctc atgagcggat acatatttga atgtatttag    1080
    67 aaaaataaac aaataggggt tccgcgcaca tttccccgaa aagtgccacc tgcatcgatg    1140
    69 aattgatccg aagttcctat tctctagaaa gtataggaac ttcgaattgt cgacaagctt    1200
    71 gatctggctt atcgaaatta atacgactca ctatagggag accggaattc attatttgta    1260
    73 gagctcatcc atgccatgtg taatcccagc agcagttaca aactcaagaa ggaccatgtg    1320
    75 gtcacgcttt tcgttgggat ctttcgaaag ggcagattgt gtcgacaggt aatggttgtc    1380
    77 tggtaaaagg acagggccat cgccaattgg agtattttgt tgataatggt ctgctagttg    1440
```

(pg.5)

RAW SEQUENCE LISTING DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:57

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

79 aacggatcca tcttcaatgt tgtggcgaat tttgaagtta gctttgattc cattcttttg 1500
81 tttgtctgcc gtgatgtata cattgtgtga gttatagttg tactcgagtt tgtgtccgag 1560
83 aatgtttcca tcttctttaa aatcaatacc ttttaactcg atacgattaa caagggtatc 1620
85 accttcaaac ttgacttcag cacgcgtctt gtagttcccg tcatctttga aagatatagt 1680
87 gcgttcctgt acataacctt cgggcatggc actcttgaaa aagtcatgcc gtttcatatg 1740
89 atccggataa cgggaaaagc attgaacacc ataagagaaa gtagtgacaa gtgttggcca 1800
91 tggaacaggt agttttccag tagtgcaaat aaatttaagg gtaagttttc cgtatgttgc 1860
93 atcaccttca ccctctccac tgacagaaaa tttgtgccca ttaacatcac catctaattc 1920
95 aacaagaatt gggacaactc cagtgaaaag ttcttctcct ttactcattt tttctaccgg 1980
97 tacccgggga tcctctagag tcgacctgca ggcatgcaag cttggcgtaa tcatggtcat 2040
99 agctgtttcc tgtgtgaaat tgttatccgc tcacaattcc acacaacata cgagccggaa 2100
101 gcataaagtg taaagcctgg ggtgcctaat gagtgagcta actcacatta attgcgttgc 2160
103 gctcactgcc cgctttccag tcgggaaatc caagggcgaa ttcgagctcg gtaccgggcc 2220
105 ccccctcgag ggacctaata acttcgtata gcatacatta tacgaagtta tattaagggt 2280
107 tccggatcct ctagagtaga cctctagagt cgacctgcag gcatgcaagc ttcagggttg 2340
109 agatgtgtat aagagacagc tgcattaatg aatcggccaa cgcgcgggga gaggcggttt 2400
111 gcgtattggg cgctcttccg cttcctcgct cactgac 2437
114 <210> SEQ ID NO: 2
115 <211> LENGTH: 1511
116 <212> TYPE: DNA
117 <213> ORGANISM: Artificial Sequence
119 <220> FEATURE:
120 <223> OTHER INFORMATION: chemically synthesized TnCloxP
123 <400> SEQUENCE: 2
124 attcaggctg cgcaactgtt gggaagggcg atcggtgcgg gcctcttcgc tattacgcca 60
126 gctgtctctt atacacatct caaccatcat cgatgaattc gagctcggta ccgcaaaaat 120
128 taaaaatgaa gttttaaatc aatctaaagt atatatgagt aaacttggtc tgacagttac 180
130 caatgcttaa tcagtgaggc accaataact gccttaaaaa aattacgccc cgccctgcca 240
132 ctcatcgcag tactgttgta attcattaag cattctgccg acatggaagc catcacagac 300
134 ggcatgatga acctgaatcg ccagcggcat cagcaccttg tcgccttgcg tataatattt 360
136 gcccatggtg aaaacggggg cgaagaagtt gtccatattg gccacgttta aatcaaaact 420
138 ggtgaaactc acccagggat tggctgagac gaaaaacata ttctcaataa acccttttagg 480
140 gaaataggcc aggttttcac cgtaacacgc cacatcttgc gaatatatgt gtagaaactg 540
142 ccggaaatcg tcgtggtatt cactccagag cgatgaaaac gtttcagttt gctcatggaa 600
144 aacggtgtaa caagggtgaa cactatccca tatcaccagc tcaccgtctt tcattgccat 660
146 acggaatttc ggatgagcat tcatcaggcg ggcaagaatg tgaataaagg ccggataaaa 720
148 cttgtgctta tttttcttta cggtctttaa aaaggccgta atatccagct gaacggtctg 780
150 gttataggta cattgagcaa ctgactgaaa tgcctcaaaa tgttctttac gatgccattg 840
152 ggatatatca acggtggtat atccagtgat ttttttctcc attttagctt ccttagctcc 900
154 tgaaaatctc gataactcaa aaaatacgcc cggtagtgat cttatttcat tatggtgaaa 960
156 gttggaacct cttacgtgcc gatcaacgtc tcattttcgc caaaagttgg cccagggctt 1020
158 cccggtatca acagggacac caggatttat ttattctgcg aagtgatctt ccgtcacagg 1080
160 tatttattcg gcgcaaagtg cgtcgggtga tgctgccaac ttactgattt agtgtatgat 1140
162 ggtgtttttg aggtgctcca gtggcttctg tttctatcag catcgatgaa ttgatccgaa 1200
164 gttcctattc tctagaaagt ataggaactt cgaattgtcg acaagcttga tctggcttat 1260
166 cgaaattaat acgactcact atagggagac cggaattcga gctcggtacc gggcccccccc 1320
168 tcgagggacc taataacttc gtatagcata cattatacga agttatatta agatcctcta 1380
170 gagtcgacct gcaggcatgc aagcttcagg gttgagatgt gtataagaga cagctgcatt 1440
172 aatgaatcgg ccaacgcgcg gggagaggcg gtttgcgtat tgggcgctct tccgcttcct 1500

RAW SEQUENCE LISTING DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:57

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

```
174 cgctcactga c                                                        1511
177 <210> SEQ ID NO: 3
178 <211> LENGTH: 19
179 <212> TYPE: DNA
180 <213> ORGANISM: Artificial Sequence
182 <220> FEATURE:
183 <223> OTHER INFORMATION: chemically synthesized OE sequence
186 <400> SEQUENCE: 3
187 ctgtctctta tacacatct                                                   19
190 <210> SEQ ID NO: 4
191 <211> LENGTH: 34
192 <212> TYPE: DNA
193 <213> ORGANISM: Artificial Sequence
195 <220> FEATURE:
196 <223> OTHER INFORMATION: chemically synthesized loxP site
199 <400> SEQUENCE: 4
200 ataacttcgt atagcataca ttatacgaag ttat                                  34
203 <210> SEQ ID NO: 5
204 <211> LENGTH: 996
205 <212> TYPE: DNA
206 <213> ORGANISM: Artificial Sequence
208 <220> FEATURE:
209 <223> OTHER INFORMATION: chemically synthesized KmR gene
212 <400> SEQUENCE: 5
213 gcaaaaatta aaaatgaagt tttgacggta tcgaacccca gagtcccgct cagaagaact       60
215 cgtcaagaag gcgatagaag gcgatgcgct gcgaatcggg agcggcgata ccgtaaagca     120
217 cgaggaagcg gtcagcccat tcgccgccaa gctcttcagc aatatcacgg gtagccaacg     180
219 ctatgtcctg atagcggtcc gccacaccca gccggccaca gtcgatgaat ccagaaaagc     240
221 ggccattttc caccatgata ttcggcaagc aggcatcgcc atgggtcacg acgagatcct     300
223 cgccgtcggg catccgcgcc ttgagcctgg cgaacagttc ggctggcgcg agcccctgat     360
225 gctcttcgtc cagatcatcc tgatcgacaa gaccggcttc catccgagta cgtgctcgct     420
227 cgatgcgatg tttcgcttgg tggtcgaatg ggcaggtagc cggatcaagc gtatgcagcc     480
229 gccgcattgc atcagccatg atggatactt tctcggcagg agcaaggtga gatgacagga     540
231 gatcctgccc cggcacttcg cccaatagca gccagtccct tcccgcttca gtgacaacgt     600
233 cgagcacagc tgcgcaagga acgcccgtcg tggccagcca cgatagccgc gctgcctcgt     660
235 cttggagttc attcagggca ccggacaggt cggtcttgac aaaaagaacc gggcgcccct     720
237 gcgctgacag ccggaacacg gcggcatcag agcagccgat tgtctgttgt gcccagtcat     780
239 agccgaatag cctctccacc caagcggccg gagaacctgc gtgcaatcca tcttgttcaa     840
241 tcatgcgaaa cgatcctcat cctgtctctt gatccactag attattgaag catttatcag     900
243 ggttattgtc tcatgagcgg atacatattt gaatgtattt agaaaaataa acaaataggg     960
245 gttccgcgca catttccccg aaaagtgcca cctgca                               996
248 <210> SEQ ID NO: 6
249 <211> LENGTH: 947
250 <212> TYPE: DNA
251 <213> ORGANISM: Artificial Sequence
253 <220> FEATURE:
254 <223> OTHER INFORMATION: chemically synthesized GFP gene
257 <400> SEQUENCE: 6
258 attatttgta gagctcatcc atgccatgtg taatcccagc agcagttaca aactcaagaa      60
```

RAW SEQUENCE LISTING DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:57

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

260 ggaccatgtg gtcacgcttt tcgttgggat ctttcgaaag ggcagattgt gtcgacaggt 120
262 aatggttgtc tggtaaaagg acagggccat cgccaattgg agtattttgt tgataatggt 180
264 ctgctagttg aacggatcca tcttcaatgt tgtggcgaat tttgaagtta gctttgattc 240
266 cattcttttg tttgtctgcc gtgatgtata cattgtgtga gttatagttg tactcgagtt 300
268 tgtgtccgag aatgtttcca tcttctttaa aatcaatacc ttttaactcg atacgattaa 360
270 caagggtatc accttcaaac ttgacttcag cacgcgtctt gtagttcccg tcatctttga 420
272 aagatatagt gcgttcctgt acataacctt cgggcatggc actcttgaaa aagtcatgcc 480
274 gtttcatatg atccggataa cgggaaaagc attgaacacc ataagagaaa gtagtgacaa 540
276 gtgttggcca tggaacaggt agttttccag tagtgcaaat aaatttaagg gtaagttttc 600
278 cgtatgttgc atcaccttca ccctctccac tgacagaaaa tttgtgccca ttaacatcac 660
280 catctaattc aacaagaatt gggacaactc cagtgaaaag ttcttctcct ttactcattt 720
282 tttctaccgg tacccgggga tcctctagag tcgacctgca ggcatgcaag cttggcgtaa 780
284 tcatggtcat agctgtttcc tgtgtgaaat tgttatccgc tcacaattcc acacaacata 840
286 cgagccggaa gcataaagtg taaagcctgg ggtgcctaat gagtgagcta actcacatta 900
288 attgcgttgc gctcactgcc cgctttccag tcgggaaatc caagggc 947
291 <210> SEQ ID NO: 7
292 <211> LENGTH: 1069
293 <212> TYPE: DNA
294 <213> ORGANISM: Artificial Sequence
296 <220> FEATURE:
297 <223> OTHER INFORMATION: chemically synthesized CmR gene
300 <400> SEQUENCE: 7
301 gcaaaaatta aaaatgaagt tttaaatcaa tctaaagtat atatgagtaa acttggtctg 60
303 acagttacca atgcttaatc agtgaggcac caataactgc cttaaaaaaa ttacgccccg 120
305 ccctgccact catcgcagta ctgttgtaat tcattaagca ttctgccgac atggaagcca 180
307 tcacagacgg catgatgaac ctgaatcgcc agcggcatca gcaccttgtc gccttgcgta 240
309 taatatttgc ccatggtgaa aacgggggcg aagaagttgt ccatattggc cacgtttaaa 300
311 tcaaaactgg tgaaactcac ccagggattg gctgagacga aaaacatatt ctcaataaac 360
313 cctttaggga aataggccag gttttcaccg taacacgcca catcttgcga atatatgtgt 420
315 agaaactgcc ggaaatcgtc gtggtattca ctccagagcg atgaaaacgt ttcagtttgc 480
317 tcatggaaaa cggtgtaaca agggtgaaca ctatcccata tcaccagctc accgtctttc 540
319 attgccatac ggaatttcgg atgagcattc atcaggcggg caagaatgtg aataaaggcc 600
321 ggataaaact tgtgcttatt tttctttacg gtctttaaaa aggccgtaat atccagctga 660
323 acggtctggt tataggtaca ttgagcaact gactgaaatg cctcaaaatg ttctttacga 720
325 tgccattggg atatatcaac ggtggtatat ccagtgattt ttttctccat tttagcttcc 780
327 ttagctcctg aaaatctcga taactcaaaa aatacgcccg gtagtgatct tatttcatta 840
329 tggtgaaagt tggaacctct tacgtgccga tcaacgtctc attttcgcca aaagttggcc 900
331 cagggcttcc cggtatcaac agggacacca ggatttattt attctgcgaa gtgatcttcc 960
333 gtcacaggta tttattcggc gcaaagtgcg tcgggtgatg ctgccaactt actgatttag 1020
335 tgtatgatgg tgtttttgag gtgctccagt ggcttctgtt tctatcagc 1069
338 <210> SEQ ID NO: 8
339 <211> LENGTH: 19
340 <212> TYPE: DNA
341 <213> ORGANISM: Artificial Sequence
343 <220> FEATURE:
344 <223> OTHER INFORMATION: chemically synthesized primer-pMODFP-1
347 <400> SEQUENCE: 8
348 attcaggctg cgcaactgt 19
351 <210> SEQ ID NO: 9

RAW SEQUENCE LISTING DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:57

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

```
352 <211> LENGTH: 22
353 <212> TYPE: DNA
354 <213> ORGANISM: Artificial Sequence
356 <220> FEATURE:
357 <223> OTHER INFORMATION: chemically synthesized primer-pMODRP-1
360 <400> SEQUENCE: 9
361 tcagtgagcg aggaagcgga ag                                          22
364 <210> SEQ ID NO: 10
365 <211> LENGTH: 28
366 <212> TYPE: DNA
367 <213> ORGANISM: Artificial Sequence
369 <220> FEATURE:
370 <223> OTHER INFORMATION: chemically synthesized primer-Tn5Ext
373 <400> SEQUENCE: 10
374 agcatacatt atacgaagtt atattaag                                    28
377 <210> SEQ ID NO: 11
378 <211> LENGTH: 35
379 <212> TYPE: DNA
380 <213> ORGANISM: Artificial Sequence
382 <220> FEATURE:
383 <223> OTHER INFORMATION: chemically synthesized primer-Arb1
386 <400> SEQUENCE: 11
W--> 387 ttgagcgata gacgtacgat nnnnnnnnnn gatat                        35
390 <210> SEQ ID NO: 12
391 <211> LENGTH: 20
392 <212> TYPE: DNA
393 <213> ORGANISM: Artificial Sequence
395 <220> FEATURE:
396 <223> OTHER INFORMATION: chemically synthesized primer-Arb2
399 <400> SEQUENCE: 12
400 ttgagcgata gacgtacgat                                             20
403 <210> SEQ ID NO: 13
404 <211> LENGTH: 25
405 <212> TYPE: DNA
406 <213> ORGANISM: Artificial Sequence
408 <220> FEATURE:
409 <223> OTHER INFORMATION: chemically synthesized primer-Tn5Int
412 <400> SEQUENCE: 13
413 tcgacctgca ggcatgcaag cttca                                       25
```

pls explain "N" locations.

See error explanation on page 7.

RAW SEQUENCE LISTING ERROR SUMMARY DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:58

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

Please Note:
Use of n and/or Xaa have been detected in the Sequence Listing. Please review the Sequence Listing to ensure that a corresponding explanation is presented in the <220> to <223> fields of each sequence which presents at least one n or Xaa.

Seq#:11; N Pos. 21,22,23,24,25,26,27,28,29,30

VARIABLE LOCATION SUMMARY DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:58

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

Error Explanation: 2

Use of n's or Xaa's(NEW RULES):
Use of n's and/or Xaa's have been detected in the Sequence Listing.
Use of <220> to <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.

Seq#:11; N Pos. 21,22,23,24,25,26,27,28,29,30

VERIFICATION SUMMARY DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A TIME: 09:38:58

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

L:11 M:271 C: Current Filing Date differs, Replaced Current Filing Date
L:387 M:258 W: Mandatory Feature missing, <221> Tag not found for SEQ ID#:11
L:387 M:258 W: Mandatory Feature missing, <222> Tag not found for SEQ ID#:11
L:387 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:11 after pos.:0

11 JUN 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

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

In re Application of KIM et al	:	
U.S. Application No.: 10/505,328	:	
PCT Application No.: PCT/KR02/02033	:	
Int. Filing Date: 31 October 2002	:	DECISION
Priority Date Claimed: 22 February 2002	:	
Attorney Docket No.: 02730.0020.PCUS00	:	
(300602004700)	:	
For: CONSTRUCTION OF NOVEL STRAINS...	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(B)" filed 14 April 2008.

BACKGROUND

On 31 October 2002, applicant filed international application PCT/KR02/02033, which claimed priority of an earlier Korea application filed 22 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2004 (22 August 2004 was a Sunday).

On 23 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 21 June 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 a copy of the sequence listing in computer readable form is required.

On 16 November 2005, the agent of record filed a request to withdraw as attorney and a change of correspondence address.

On 25 November 2005, applicant filed a copy of the sequence listing in computer readable form.

On 21 February 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which identified errors in the copy of the sequence listing in computer readable form filed 25 November 2005.

International application number PCT/KR02/02033 became abandoned as to the United States for failure to timely respond to the Notification of Defective Response.

On 14 April 2008, 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 31 October 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 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 Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/505,336	BRANDEN ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				6	435	7.1	91.1						
INTERNATIONAL CLASSIFICATION					536	23.1	24.3						
C	1	2	Q	1/68									
G	0	1	N	33/53									
C	1	2	P	19/34									
C	0	7	H	21/02									
C	0	7	H	21/04									

(Assistant Examiner) (Date)	/Frank W Lu/ 6/18/2010	Total Claims Allowed: 9
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 / O.G. Print Fig.: 1

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5	1	35		65		95		125		155		185
	6	2	36		66		96		126		156		186
	7	3	37		67		97		127		157		187
	8	4	38		68		98		128		158		188
	9	5	39		69		99		129		159		189
	10	6	40		70		100		130		160		190
	11		41		71		101		131		161		191
	12	7	42		72		102		132		162		192
	13	8	43		73		103		133		163		193
	14	9	44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
	23		53		83		113		143		173		203
	24		54		84		114		144		174		204
	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

COPY MAILED
DEC 12 2007
OFFICE OF PETITIONS

In re Application of :
FRANCIS DELAPORTE :
Application No. 10/505,340 : DECISION ON PETITION
Filed: 05/10/2005 :
Attorney Docket No. 026032-4805 :

This is a decision on the petition under 37 CFR 1.181, filed October 9, 2007, to withdraw the holding of abandonment for the above-identified application.

On January 29, 2007, the Office mailed a non-final Office action, which set three-month shortened statutory period for reply. On August 9, 2007, the Office mailed a Notice of Abandonment, indicating the application was abandoned because no reply was received.

In the present petition, applicants asserted that they filed a timely reply. Upon reviewing the record, the Office has located the reply in the form of an amendment and a request for an extension of time for response within the third month (and fee) in the Image File Wrapper filed on July 27, 2007. Accordingly, the reply is considered timely filed on July 27, 2007.

The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that the reply was timely filed July 27, 2007.

The matter is being referred to Technology Center Art Unit 2855 for a review of the reply filed on July 27, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

19 JUN 2009

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

ANTHONY ASQUITH
28-461 COLUMBIA STREET WEST
WATERLOO ON N2T 2P5 CA CANADA

In re Application of REPPLE et al.	:
Application No.: 10/505,343	: DECISION ON PETITION
Filing: 23 August 2004	:
Attorney Docket No.: 752-06US	: UNDER 37 CFR 1.78(a)(3)
For: THERMAL CONTROL OF FLOWRATE	:
IN ENGINE COOLANT SYSTEM	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 08 April 2009 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application No. 10/330,108 filed on 30 December 2002. The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a

proper benefit claim is: "This application is a continuation of Application No. 10/330,108 filed 30 December 2002." A benefit claim that merely states: "This patent application derived priority from US patent application number 10/330,108 filed 30 December 2002 and from international application PCT/CA2003-/02017 filed on 30 December 2003" does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See Manual of Patent Examining Procedure, (8th ed., Revision 7 (July 2008)), Section 201.11, Reference to Prior Application(s). The amendment filed 02 October 2008 is improper because there is no specific reference indicating the relationship of U.S. Application 10/330,108 to the instant application. The application data sheet filed 23 August 2004 similarly fails to properly state such relationship.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] or supplemental application data sheet (37 CFR 1.76) stating the relationship of the prior-filed application to the instant application is required.

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

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

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

By fax: 571-273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Cynthia Kratz at (571) 272-3286.

Byran Lin

Byran Lin
PCT Legal Examiner
Office of PCT Legal Administration

---

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Van Lammeren	:	
Application No. 10/505,350	:	ON PETITION
Filed: August 19, 2004	:	
Attorney Docket No. NL02 0143 US	:	

This is a decision on the petition filed, January 29, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.
This matters is being referred to Technology Center AU 2816 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

COPY MAILED

JUL 24 2008

In re Application of	:	
Johannes Petrus Maria Van Lammeren	:	
Application No. 10/505,350	:	ON PETITION
Filed: August 19, 2004	:	
Attorney Docket No. NL02 0143 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 27, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 28, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 2816 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael Ure
Useful Arts Intellecual Property Law
10518 Phil Place
Cupertino, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,356	08/19/2004	Gerald J Julien	Ice US1	5987

7590 05/14/2010

J. Michael Neary
53939 Pine Grove Road
LaPine, OR 97739

EXAMINER
WALTERS, JOHN DANIEL

ART UNIT	PAPER NUMBER
3618	

MAIL DATE	DELIVERY MODE
05/14/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 14 2010

J. Michael Neary
53939 Pine Grove Road
LaPine, OR 97739

In re Application of:	:	**DECISION ON PETITION**
Gerald Julien	:	**UNDER 37 CFR 1.181**
Application No. 10/505,356	:	
Filed: August 19, 2004	:	
Attorney Docket No.: Ice US1	:	
For: NITINOL ICE BLADES	:	

This is in response to applicants' petition under 37 CFR 1.181 filed May 5, 2009 requesting the Examiner to respond to the Applicant's Request for Clarification filed on February 9, 2009.

The Petition is **GRANTED.**

The applicant is requesting a more thorough review and explanation of the Declaration under 1.132 filed June 30, 2006 and the Report filed August 4, 2008. Neither has been fully addressed during the prosecution of the application.

A review of the record reveals repeated attempts by the applicant to have the Declaration and Report addressed. The Declaration under 1.132 was originally filed June 30, 2006. The examiner mailed a non-final rejection October 17, 2006, but did not address the Declaration. The applicant filed a Request for Clarification October 20, 2006 requesting that the Declaration be entered and considered, and then filed an amendment January 17, 2007 with a copy of the Declaration, and requested that the Declaration be considered again. A supplemental response was filed February 28, 2007. The examiner mailed a Final rejection May 21, 2007, but did not fully address the Declaration. Applicant filed an Appeal Brief October 17, 2007, and in response, the examiner mailed a Non-final rejection February 11, 2008. Applicant filed a Request for Reconsideration May 12, 2008, and on August 4, 2008, filed a Report providing additional evidence related to the Declaration. The examiner mailed a Final rejection February 6, 2009, but did not fully address the Declaration nor the Report. A Request for Clarification was filed February 9, 2009 requesting that the Declaration and Report be addressed. Applicant then filed a Petition under 37 CFR 1.181 on May 6, 2009 and

ultimately an Appeal Brief July 6, 2009. An Examiner's Answer was mailed September 2, 2009 and a Reply Brief was filed November 2, 2009.

In light of the Petition and review of the record, a new Final Rejection will be mailed fully addressing the Declaration and Report.

The application will be forwarded to the examiner of record to treat the Request for Clarification filed February 9, 2009, the Report filed August 4, 2008, and the Declaration under Rule 1.132 filed January 17, 2007 (originally filed June 30, 2006).

Dave Talbott, Director
Patent Technology Center 3600

/pnd/

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 19 2010

J. Michael Neary
53939 Pine Grove Road
LaPine, OR 97739

In re Application of	:	**DECISION ON PETITION**
Gerald JULIEN	:	**UNDER 37 CFR 1.181**
Application No. 10/505,356	:	
Filed: August 19, 2004	:	
For: NITINOL ICE BLADES	:	

This is in response to applicants' petition under 37 CFR 1.181 filed May 6, 2009 requesting the examiner to respond to the applicant's Request for Clarification filed on February 9, 2009 regarding a rule 1.132 declaration (the Declaration) by Ms. Susan Buchanan submitted on June 30, 2006 and a test result report (the Report) filed August 4, 2008.

The petition is **GRANTED.**

The applicant is requesting a review of the Declaration and the Report. Applicant alleges that neither has been fully addressed during the prosecution of the application.

A review of the record reveals that the Declaration under 1.132 was originally filed June 30, 2006 along with an amendment in a response to the first non-final Office action dated March 31, 2006. A restriction requirement was made on September 1, 2006 restricting between group I of claims 1-4 and 6-12, and group II of claim 5. Applicant made a response on October 2, 2006 electing group I of claims 1-4 and 6-12, canceling claim 5 and adding claims 13-15. The examiner mailed a second non-final Office action on October 17, 2006, but did not address the Declaration. The applicant filed a Request for Clarification October 20, 2006 requesting that the Declaration be entered and considered, and then filed an amendment January 17, 2007 with a copy of the Declaration, and requested that the Declaration be considered again. A supplemental response was filed February 28, 2007. The examiner mailed a final Office action May 21, 2007, but did not fully address the Declaration. Applicant filed an appeal brief October 16, 2007, and in response, the examiner mailed a third non-final Office action on February 11, 2008. Applicant filed a request for reconsideration May 12, 2008, and on August 4, 2008, filed the Report providing additional evidence related to the Declaration. The examiner mailed a second final Office action on February 6, 2009, but did not fully address the Declaration nor the Report. A Request for Clarification was filed February 9, 2009 requesting that the Declaration and Report be addressed. Applicant then filed a petition under 37 CFR 1.181 on May 6, 2009 and ultimately an appeal brief July 6, 2009. An examiner's answer was mailed September 2, 2009 and a reply brief was filed November 2, 2009.

MPEP § 716.01 (B) specifies that "Evidence traversing rejections, when timely presented, must be considered by the examiner whenever present. All entered affidavits, declarations, and other evidence traversing rejections are acknowledged and commented upon by the examiner in the next succeeding action. The extent of the commentary depends on the action taken by the examiner. Where an examiner holds that the evidence is sufficient to overcome the *prima facie* case, the comments should be consistent with the guidelines for statements of reasons for allowance. See MPEP 1302.14. Where the evidence is insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient. General statements such as "the declaration lacks technical validity" or "the evidence is not commensurate with the scope of the claims" without an explanation supporting such findings are insufficient."

It is clear from the record that the examiner has not specifically explained why the Declaration and Report is insufficient to overcome the prima facie case. A new Office action will be mailed fully addressing the Declaration and Report.

The application will be forwarded to the examiner of record to treat the Request for Clarification filed February 9, 2009, the Report filed August 4, 2008, and the Declaration under Rule 1.132 filed January 17, 2007 (originally filed June 30, 2006).

Any questions regarding this decision should be directed to Supervisory Patent Examiner Paul Dickson at (571) 272-7742.

David Talbott, Director
Patent Technology Center 3600
571-272-5150

pnd/lm: 5/11/10
LM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
SEP 14 2007
OFFICE OF PETITIONS

MERCK AND CO., INC.
P. O. BOX 2000
RAHWAY, NJ 07065-0907

In re Application of	:	
Rebecca Elizabeth Brown et al	:	
Application No. 10/505,358	:	DECISION ON PETITION
Filed: August 19, 2004	:	
Attorney Docket No. T1566P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 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 July 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 30, 2007. Accordingly, the date of abandonment of this application is July 3, 2007. A Notice of Abandonment was mailed on July 23, 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 $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The rule at 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

02 MAY 2005

#5

UNITED STATES PATENT and TRADEMARK OFFICE

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

GARDNER GROFF, P.C.
Paper Mill Village, Building 23
600 Village Trace, Suite 300

In re Application of	:	DECISION ON
Kennedy et al	:	
PCT No.: PCT/EP03/01700	:	
Application No: 10/505,361	:	PETITION UNDER
Int. Filing Date: 20 February 2003	:	
Priority Date: 21 February 2002	:	
Attorney's Docket No.: 2G02.1-084 US	:	37 CFR 1.47(a)
For: BLOOD ANALYZER AND PRICKING	:	
DEVICE FOR USE IN BLOOD ANALYSIS	:	

This is in response to the "PETITION TO ACCEPT SIGNATURE BY CO-INVENTOR ON BEHALF OF INVENTOR WHO REFUSES TO JOIN IN APPLICATION OR CANNOT BE REACHED (37 CFR 1.47(a))" filed on 04 April 2005. The petition fee of $130.00 has been paid by check.

BACKGROUND

On 20 February 2003, applicants filed international application PCT/EP03/01700, which claimed priority to an earlier application filed 21 February 2002. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 28 August 2003.

On 19 August 2004, applicants filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed oath or declaration was submitted at such time.

On 03 January 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 $130.00 late oath or declaration surcharge. These items must be submitted within two months from the date of this Notice or by 32 months from the priority of date the application, in order to avoid abandonment of the national stage application.

On 04 April 2005, petitioner filed the present petition, a declaration in support of filing on behalf of nonsigning inventor Mitchell A. Solis accompanied, inter alia, an executed Declaration without the signatures of Mr. Solis.

DISCUSSION

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

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

Petitioner has satisfied requirements (1) – (2), and (3) of 37 CFR 1.47(a) but not requirement (4).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the averments of Mr. Bradley K. Groff are sufficient to support a finding that the nonsigning inventor, Mr. Solis, refuses to sign because a complete copy of the application, assignment, and declaration and power of attorney was mailed to Mr. Solis on December 22, 2004 requesting that he review the application and sign the assignment and declaration. Mr. Groff has not received a response by Mr. Solis as to this date. In addition, Mr. Groff has provided the necessary evidentiary documents to support his averments.

Regarding requirement 3, petitioner has not provided a statement of the last known address of the missing inventor.

Mitchell A. Solis
1974 Lexington Lane
Cumming, Georgia 3004

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, 3 sheets of page 3, 1 sheet 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)."

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

03 MAY 2005

#5

UNITED STATES PATENT and TRADEMARK OFFICE

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

GARDNER GROFF, P.C.
Paper Mill Village, Building 23
600 Village Trace, Suite 300
Marietta, GA 30067

In re Application of	:	DECISION ON
Kennedy et al	:	
PCT No.: PCT/EP03/01700	:	
Application No: 10/505,361	:	PETITION UNDER
Int. Filing Date: 20 February 2003	:	
Priority Date: 21 February 2002	:	
Attorney's Docket No.: 2G02.1-084 US	:	37 CFR 1.47(a)
For: BLOOD ANALYZER AND PRICKING	:	
DEVICE FOR USE IN BLOOD ANALYSIS	:	

This is in response to the "PETITION TO ACCEPT SIGNATURE BY CO-INVENTOR ON BEHALF OF INVENTOR WHO REFUSES TO JOIN IN APPLICATION OR CANNOT BE REACHED (37 CFR 1.47(a))" filed on 04 April 2005. The petition fee of $130.00 has been paid by check.

BACKGROUND

On 20 February 2003, applicants filed international application PCT/EP03/01700, which claimed priority to an earlier application filed 21 February 2002. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 28 August 2003.

On 19 August 2004, applicants filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed oath or declaration was submitted at such time.

On 03 January 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 $130.00 late oath or declaration surcharge. These items must be submitted within two months from the date of this Notice or by 32 months from the priority of date the application, in order to avoid abandonment of the national stage application.

On 04 April 2005, petitioner filed the present petition, a declaration in support of filing on behalf of nonsigning inventor Mitchell A. Solis accompanied, inter alia, an executed Declaration without the signatures of Mr. Solis.

DISCUSSION

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be

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

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

Petitioner has satisfied requirements (1) – (2), and (3) of 37 CFR 1.47(a) but not requirement (4).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the averments of Mr. Bradley K. Groff are sufficient to support a finding that the nonsigning inventor, Mr. Solis, refuses to sign because a complete copy of the application, assignment, and declaration and power of attorney was mailed to Mr. Solis on December 22, 2004 requesting that he review the application and sign the assignment and declaration. Mr. Groff has not received a response by Mr. Solis as to this date. In addition, Mr. Groff has provided the necessary evidentiary documents to support his averments.

Regarding requirement 3, petitioner has not provided a statement of the last known address of the missing inventor.

Mitchell A. Solis
1974 Lexington Lane
Cumming, Georgia 3004

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, 3 sheets of page 3, 1 sheet 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)."

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

06 JUL 2005

UNITED STATES PATENT and TRADEMARK OFFICE

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

GARDNER GROFF, P.C.
Paper Mill Village, Building 23
600 Village Trace, Suite 300
Marietta, GA 30067

In re Application of	:	DECISION ON RENEWED
Kennedy et al	:	
PCT No.: PCT/EP03/01700	:	
Application No: 10/505,361	:	PETITION UNDER
Int. Filing Date: 20 February 2003	:	
Priority Date: 21 February 2002	:	
Attorney's Docket No.: 2G02.1-084 US	:	37 CFR 1.47(a)
For: BLOOD ANALYZER AND PRICKING	:	
DEVICE FOR USE IN BLOOD ANALYSIS	:	

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed on 31 May 2005.

BACKGROUND

In a decision from this Office on 03 May 2005, the petition was dismissed. The decision stated that petitioner had provided a defective composite declaration.

On 31 May 2005, petitioner filed the present renewed petition accompanied with a new composite 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 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.

Petitioner has satisfied requirement (4), thus satisfying all the requirements under 37 CFR 1.47(a).

Regarding requirement (4), petitioner has provided a proper executed composite declaration.

Consequently, the petition does satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **31 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 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 23 2005

Kathleen A. Tyrell
Licata & Tyrrell,P.C.
66 E. Main Street
Marlton, New Jersey 08053

In re Application of Jennings et al

Serial No: 10/505,376	: PETITION TO MAKE SPECIAL
Filed: August 20, 2004	:
Attorney Docket No. BOR-0002	:

This is in response to applicant's petition filed on September 24, 2004, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant. No fee is required for this petition.

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

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

Should there by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

Julie Burke
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED
FEB 19 2010

In re Patent No. 7,488,712	:	DECISION ON REQUEST
Yoshida et al.	:	FOR
Issue Date: February 10, 2009	:	RECONSIDERATION OF
Application No. 10/505,380	:	PATENT TERM ADJUSTMENT
Filed: June 17, 2005	:	and
Atty Docket No. 18115-002US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 10, 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-seven (877) 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-seven (877) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred seventy-seven (877) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,488,712

DATED : **February 10, 2009** **DRAFT**

INVENTOR(S) : Yoshida 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 375 days

Delete the phrase "by 375 days" and insert – by 877 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

05 AUG 2008

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of KUWANO et al. Application No.: 10/505,393 PCT No.: PCT/JP03/01897 Int. Filing Date: 21 February 2003 Priority Date: 22 February 2002 Attorney Docket No.: 04561/HG For: DRUG DELIVERY SYSTEM FOR THE SUBCONJUNCTIVAL ADMINISTRATION OF FINE GRAINS	DECISION

This is a decision on applicant's "Submission of Corrected Translation" in effect, a petition requesting acceptance of an English translation as a replacement for the English translation, filed in the United States Patent and Trademark Office (USPTO) on 27 June 2008 in the above identified application. The processing fee for filing the English translation after the thirty month period is required and has been paid.

On 20 August 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) along with, *inter alia*, the basic national fee and a purported English translation of the international application PCT/JP03/01897. No Notification of Missing Requirements was mailed.

On 30 December 2004, a Notification of Acceptance was mailed to applicant indicating that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements was 20 August 2004.

On 27 June 2007, applicant filed the instant request to accept a corrected English translation for international application PCT/JP03/01897 as a replacement for the originally filed English translation. A correct English translation of the international application PCT/JP03/01897 was submitted. The new English translation of the international application filed on 27 June 2008 is accepted.

The Notification of Acceptance mailed on 30 December 2004 is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including issuance of a new Notification of Acceptance.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

0 8 OCT 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

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of KUWANO et al. Application No.: 10/505,393 PCT No.: PCT/JP03/01897 Int. Filing Date: 21 February 2003 Priority Date: 22 February 2002 Attorney Docket No.: 04561/HG For: DRUG DELIVERY SYSTEM FOR THE SUBCONJUNCTIVAL ADMINISTRATION OF FINE GRAINS	:	DECISION

This is a correction to the 05 August 2008 decision, raised in applicant's communication filed in the United States Patent and Trademark Office (USPTO) on 11 August 2008 in the above identified application.

The decision mailed on 05 August 2008 incorrectly indicated that the new English translation of the international application was filed on 27 June 2008. A review of the USPTO files indicates that the correct date is **26 June 2008.**

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
OCT 0 7 2008
OFFICE OF PETITIONS

In re Application of	:	
Avramis et al.	:	
Application No. 10/505,399	:	ON PETITION
Filed: August 19, 2004	:	
Attorney Docket No. ON/4-32344A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2008, to revive the above-identified application.

The petition is not signed by the attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. George R Dohmann appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Dohmann 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. Dohmann, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is GRANTED.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 1, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on May 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540, 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).

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 $1,050 extension of time fee submitted August 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as requested.

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

This application is being referred to Technology Center 1616 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GEORGE R DOHMANN
NOVARTIS PHARMACEUTICALS CORP
PATENTS PHARMA
ONE HEALTH PLAZA BUILDING 104
EAST HANOVER, NJ 07936-1080

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA VA 22314

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Bykov, et al. :
Application No. 10/505,407 : DECISION ON PETITION
Filed: August 23, 2004 :
Attorney Docket No. 1505-1052 :

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 September 6, 2008 for failure to reply in a timely manner to the non-final Office action, mailed June 5, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed December 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the non-final Office action, (2) the required petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3205.

This application is being referred to Technology Center AU 1614 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

18 AUG 2006

Norikazu Sato
2-46-8, Unoki, Ootaku
Tokyo 146-0-091 JP JAPAN

In re Application of:	:	
SATO, Norikazu, et al.	:	
Application No.: 10/505,408	:	DECISION
PCT No.: PCT/JP02/06545	:	
Int. Filing Date: 28 June 2002	:	
Priority Date: 26 February 2002	:	
Attorney Docket No.: None	:	
For: MULTI-DISPLAY APPARATUS	:	

This decision is issued in response to the correspondence submitted by co-applicant Norikazu SATO on 24 May 2006, treated herein as a petition under 37 CFR 1.181 to vacate the fee requirements set forth in the Notification Of Insufficient Fees mailed 29 March 2006. No petition fee is required.

BACKGROUND

On 28 June 2002, applicants filed international application PCT/JP02/06545. The international application claimed a priority date of 26 February 2002, and it designated the United States. On 04 September 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 26 August 2004.

On 24 August 2004, applicant Norikazu SATO 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 24 October 2004, applicant Norikazu SATO filed a translation of the international application into English and the $130 processing fee for filing the English translation later than thirty months after the priority date.

On 29 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Insufficient Fees (Form PCT/DO/EO/923) requiring submission of additional claims fees of $180 and a $65 surcharge for "late submission of filing fee, search fee, examination fee or oath or declaration."

Also on 29 March 2006, the USPTO issued a filing receipt that identified only one applicant herein (Norikazu SATO).

On 24 May 2006, applicant Norikazu SATO filed a letter requesting clarification regarding the fees required by the Notification Of Insufficient Fees mailed 29 March 2006.

DISCUSSION

The Notification Of Insufficient Fees mailed 29 March 2006 indicates that applicants are required to pay an additional claim fee of $180 and a $65 surcharge for "late submission of filing fee, search fee, examination fee or oath or declaration." The requirement of the additional $180 claims fee is appropriate, as this amount represents the proper small entity fee for inclusion of a multiple dependent claim and the present application contains multiple dependent claims. However, the $65 surcharge requirement is inappropriate because applicant submitted the required basic national fee and the executed declaration on 24 August 2004, prior to the expiration of the thirty month deadline.

Based on its inclusion of the inappropriate surcharge requirement The Notification Of Insufficient Fees mailed 29 March 2006 is appropriately vacated. However, payment of the $180 fee for inclusion of a multiple dependent claim (or an amendment removing the multiple dependent claim) is still required.

In addition, a review of the application file reveals that the declaration filed by applicants on 24 August 2004 is defective in that an English translation of language contained therein has not been provided. Specifically, an English translation of the application title listed in the declaration and the inventors' names, addresses, and citizenship listed therein has not been provided (see 37 CFR 1.69(b)). Applicants must provide a certified translation of the untranslated portions of the declaration before the declaration can be accepted.

Finally, applicants should note that communications filed in the USPTO must be executed by a registered agent or by all applicants (see 37 CFR 1.33(b)). Thus, correspondence such as the letter filed 24 May 2006 and signed only by co-applicant Norikazu SATO, is considered an improperly signed communication. All further submissions by applicants must be properly executed under 37 CFR 1.33(b) (i.e., signed by both applicants or by a registered attorney or agent).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** to the extent set forth herein.

Based on the inclusion of the unnecessary $65 surcharge requirement, the Notification Of Insufficient Fees (Form PCT/DO/EO/923) mailed 29 March 2006 is hereby **VACATED**.

The filing receipt mailed 29 March 2006, which incorrectly identified Norikazu SATO as the sole applicant and was issued prematurely (i.e., prior to the mailing of a Notification Of Acceptance), is hereby **VACATED**.

Applicants have **TWO (2) MONTHS** from the mail date of the present communication to submit: (1) $180 as the small entity fee for inclusion of a multiple dependent claim (or, in the alternative, a proper amendment of the claims that removes all multiple dependent claims), and

(2) an English translation of the untranslated portions of the declaration filed 24 August 2004 (i.e., the application title, and the inventors' names, addresses, and citizenship), as required by 37 CFR 1.69(b).

Extensions of time are available under 37 CFR 1.136(a). Failure to file a timely and proper response will result in abandonment of the application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
OCT 26 2007
OFFICE OF PETITIONS

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Patent No. 7,195,712	:	
Issue Date: March 27, 2007	:	
Application No. 10/505,424	:	ON PETITION
Filed: August 24, 2004	:	
Attorney Docket No. 030681-694	:	

This is a decision on the petition filed June 13, 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**.

Petitioner states that the correct assignee's name is Samsung Engineering Co., Ltd. and that the incorrect assignee's name was 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 correct assignee on the front page of the Letters Patent.

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

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

Petitioner has provided a request for a certificate of correction under § 1.323 and the fee required by § 1.20(a); however, the processing fee set forth in § 1.17(i) has not been paid. The $130 processing fee is

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

being charged to counsel's deposit account as authorized. Accordingly, the request complies with the provisions of 37 CFR 3.81(b).

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 13 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,379,802	:	
Issue Date: May 27, 2008	:	
Application No. 10/505,427	:	DECISION ON PETITION
Filed: October 05, 2004	:	
Attorney Docket No. **120851**	:	

This is a decision on the Request for Certificate of Correction filed July 23, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Tredelle Jackson at (571) 272-2783. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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. Kirk D. Berkhimer 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. Kirk D. Berkhimer desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiners
Office of Petitions

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

OIPE
JUL 2 3 2008
PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Jean-Marc KASBARIAN et al. — Group Art Unit: 3661

Application No.: 10/505,427 — Examiner: T. NGUYEN

Filed: October 5, 2004 — Docket No.: 120851

For: METHOD OF DAMPING THE PARASITIC VIBRATIONS COMING FROM THE FRONT AXLE ASSEMBLY OF A MOTOR VEHICLE

PETITION UNDER 37 C.F.R. §1.183 FOR
WAIVER OF THE REQUIREMENTS OF 37 C.F.R. §3.81

Director of the U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This petition respectfully requests waiver of the requirements of 37 C.F.R. §3.81 so that a Certificate of Correction can be granted to correctly identify the city of the assignee on the front face of the patent.

The above-identified patent is assigned to JTEKT Europe, by virtue of an Assignment recorded on April 15, 2008 at Reel 020809, Frame 0510. The Assignment was submitted for recordation prior to payment of the Issue Fee, but the Assignee was inadvertently misidentified as "Koyo Steering Europe (K.S.E.)" on form PTOL-85, PART B - FEE(S) TRANSMITTAL.

Therefore, the incorrect Assignee was printed on the front face of the patent when the Assignee should be correctly identified as "JTEKT Europe."

It is respectfully requested that the requirements of 37 C.F.R. §3.81 be waived, so applicants can file a Request for Certificate of Correction to identify the correct assignee.

Attached to this petition are:

07/24/2008 SZEWDIE1 00000106 7379882
01 FC:1464 130.00 OP

1) Our Check No. 208114 in the amount of $130.00 as the petition fee set forth in 37 C.F.R. §1.17(i). If any additional fees are necessary, the U.S. Patent and Trademark Office is authorized to debit Deposit Account No. 15-0461; and

~~07/24/2008 SZEWDIE1 00000106 10505427~~
~~07/24/2008 SZEWDIE1 00000106~~ -130.00 OP
~~01 FC:1464~~ ~~130.00 OP~~

2) A Request for Certificate of Correction under 37 C.F.R. §1.323. The Request indicates that this Petition has been filed.

Respectfully submitted,

William P. Berridge
Registration No. 30,024

Kirk D. Berkhimer
Registration No. 59,874

WPB:KDB/mab

Date: July 23, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

OIPE JUL 2 3 2008 IAP51 PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,379,802

Issue Date: May 27, 2008

Inventor(s): Jean-Marc KASBARIAN; Sebastien BOURDREZ; Richard CHAUVEL-SANZ

Title: METHOD OF DAMPING THE PARASITIC VIBRATIONS COMING FROM THE FRONT AXLE ASSEMBLY OF A MOTOR VEHICLE

Docket No.: 120851

REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 323

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

Sir:

It is respectfully requested that a Certificate of Correction be issued in order to correct the error specified in the attached copy of Certificate of Correction Form PTO-1050.

Our Check No. 207802 in the amount of One Hundred Dollars ($100.00) is attached in accordance with the provisions of 37 C.F.R. §1.323 and §1.20(a). In the event of any underpayment or overpayment, please debit or credit Deposit Account No. 15-0461 as needed in order to ensure prompt issuance of a Certificate of Correction.

Respectfully submitted,

William P. Berridge
Registration No. 30,024

Kirk D. Berkhimer
Registration No. 59,874

07/24/2008 SZEWDIE1 00000106 7379802
02 FC:1811 100.00 OP

WPB:KDB/mab

Date: July 23, 2008

07/24/2008 SZEWDIE1 00000010 10505427
02 FC:1811 -100.00 OP

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

PTO/SB/44 (02-01)
Approved for use through 1/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Action 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 : 7,379,802

DATED : May 27, 2008

INVENTOR(S) : Jean-Marc KASBARIAN; Sebastien BOURDREZ; Richard CHAUVEL-SANZ

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

Please correct the Assignee as follows:

(73) Assignee: JTEKT Europe

MAILING ADDRESS OF SENDER: OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

PATENT NO. 7,379,802
No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PART B - FEE(S) TRANSMITTAL

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

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

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

25944 7590 01/30/2008

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

APR 24 2008 PATENT & TRADEMARK OFFICE

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

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

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,427	10/05/2004	Jean-Marc Kasbarian	120851	7406

TITLE OF INVENTION: METHOD OF DAMPING THE PARASITIC VIBRATIONS COMING FROM THE FRONT AXLE ASSEMBLY OF A MOTOR VEHICLE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	04/30/2008

04/25/2008 MDELETE2 00000042 10505427
01 FC:1501 1440.00 OP
02 FC:1504 300.00 OP

EXAMINER	ART UNIT	CLASS-SUBCLASS
NGUYEN, TAN QUANG	3661	701-036000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Oliff & Berridge, PLC
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: KOYO Steering Europe (K.S.E.)
(B) RESIDENCE: (CITY and STATE OR COUNTRY): Irigny, France

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

4a. The following fee(s) are submitted:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
☒ A check is enclosed. Check no. 205033 $1740
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 15-0461 (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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

Authorized Signature _____ Date April 24, 2008

Typed or printed name Daniel A. Tanner, III Registration No. 54,734

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 7379802 Total Records Found: 2

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/24/2008	00000159	2	1464	$130.00	07/23/2008	CK
07/24/2008	00000160	2	1811	$100.00	07/23/2008	CK

Patent Assignment Abstract of Title

Total Assignments: 2

Application #: 10505427 **Filing Dt:** 10/05/2004 **Patent #:** 7379802 **Issue Dt:** 05/27/2008

PCT #: NONE **Publication #:** US20050119810 **Pub Dt:** 06/02/2005

Inventors: Jean-Marc Kasbarian, Sebastien Bourdrez, Richard Chauvel-Sanz

Title: METHOD OF DAMPING THE PARASITIC VIBRATIONS COMING FROM THE FRONT AXLE ASSEMBLY OF A MOTOR VEHICLE

Assignment: 1

Reel/Frame: 015220 / 0136 **Received:** 10/05/2004 **Recorded:** 10/05/2004 **Mailed:** 10/06/2004 **Pages:** 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: KASBARIAN, JEAN-MARC **Exec Dt:** 09/09/2004

BOURDREZ, SEBASTIEN **Exec Dt:** 09/09/2004

CHAUVEL-SANZ, RICHARD **Exec Dt:** 09/09/2004

Assignee: KOYO STEERING
EUROPE (K.S.E.)
Z.I. DU BROTEAU 69540
IRIGNY, FRANCE

Correspondent: OLIFF & BERRIDGE, PLC
WILLIAM P. BERRIDGE
P.O. BOX 19928
ALEXANDRIA, VA 22320

Assignment: 2

Reel/Frame: 020809 / 0510 **Received:** 04/15/2008 **Recorded:** 04/15/2008 **Mailed:** 04/16/2008 **Pages:** 5

Conveyance: CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

Assignor: KOYO STEERING EUROPE (K.S.E.) **Exec Dt:** 02/20/2008

Assignee: JTEKT EUROPE
Z.I. DU BROTEAU
69540 IRIGNY, FRANCE

Correspondent: WILLIAM P. BERRIDGE
OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

Search Results as of: 04/06/2009 12:29 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: October 18, 2008 v.2.0.1

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

COPY MAILED
JUN 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Helmut Matthias Simonis	:	
Application No. 10/505,444	:	DECISION ON PETITION
Filed: May 2, 2005	:	TO WITHDRAW
Attorney Docket No. 002918.00026	:	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) or 37 C.F.R. § 10.40, filed March 14, 2005.

The request is **APPROVED**.

A review of the file record indicates that Christopher R. Glembocki and all attorneys/agents of record who are associated with customer No. 22907: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Christopher R. Glembocki and all attorneys/agents of record who are associated with customer No. 22907 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 2616.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: CINDY S. KAPLAN
P.O. BOX 2448
SARATOGA, CA 95070

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/8/08

Paper No.: —

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/505454 Patent No: 7308759B2

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: _____

SPE

3729
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 25 2008

OFFICE OF PETITIONS

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

In re Application of
Frederic FORTIN et al.
Application No. 10/505,469
Filed: August 20, 2004
Attorney Docket No. 09955.0047-00000

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23 2007 and supplemental petition filed March 03, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 07, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 11, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 07, 2006 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 $525.00 extension of time fee submitted with the petition on October 23, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The power of attorney filed by the assignee on February 06, 2008 has been accepted and made of record.

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

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

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

The application file is being referred to Technology Center AU 3733 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

28 SEP 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jody L Factor
Factor & Lake
1327 W. Washington Blvd
Suite 5G/H
Chicago IL 60607

In re Application of HAHN Serial No.: 10/505,473 PCT App. No.: PCT/EP03/00662 Int'l Filing Date: 23 January 2003 Priority Date: 23 January 2002 Attorney Docket No.: OST-041274 For: DENTAL THERAPEUTIC DEVICE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 September 2005 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 requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $460 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 including issuance of a Notification of Missing Requirements, indicating that an 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

28 MAR 2006

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOWE HAUPTMAN GILMAN AND BERNER
1700 Diagonal Road
Suite 300/310
Alexandria, VA 22314

In re Application of	:	
LE ROUX, Jean-Louis, et al.	:	
U.S. Application No.: 10/505,484	:	DECISION
PCT No.: PCT/FR03/00513	:	
International Filing Date: 17 February 2003	:	
Priority Date: 21 February 2002	:	
Attorney's Docket No.: 4444-042	:	
For: DYNAMIC DISTRIBUTED METHOD FOR LOCAL PROTECTION OF A LABEL-SWITCHING PATH	:	

This decision is issued in response to the "Request For Withdrawal Of Holding Of Abandonment - No Abandonment In Fact" filed 21 November 2005, treated herein under 37 CFR 1.8(b). No petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in detail in the Communication mailed herein on 12 May 2005. That Communication informed applicants that, in order to avoid abandonment of the present application, an English translation of the international application as filed was required (as well as necessary extension fees).

On 08 November 2005, 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 timely response to the 12 May 2005 Communication.

On 21 November 2005, applicants filed the petition considered herein. The petition requests withdrawal of the holding of abandonment, stating that an English translation of the international application (and an authorization to charge Deposit Account 07-1337 the required extension fee) was timely filed via facsimile on 26 May 2005.

DISCUSSION

The present petition is accompanied by: (1) a document entitled "Supplemental Response To Notice Of Missing Requirements Under 35 U.S.C. 371" that references an attached translation of the international application as filed and bears a "Certification Of Facsimile Transmission" executed by Tracy A. Luke, dated 26 May 2005; (2) a copy of an English

translation of the international application as filed (including claims 1-14); and (3) a document entitled "Petition For Extension Of Time" that requests a four-month extension of time and also bears a "Certification Of Facsimile Transmission" executed by Tracy A. Luke, dated 26 May 2005. The petition states that these materials were submitted to the USPTO by facsimile on 26 May 2005.

The application file does not contain the materials purportedly filed by facsimile on 26 May 2005. By the present petition, applicants seek to confirm the 26 May 2005 filing of the accompanying materials pursuant to the procedure 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 Allan M. Lowe, states that the attached materials were submitted by facsimile on 26 May 2005. However, Mr. Lowe is not the person who executed the Certification Of Facsimile 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 Tracy A. Luke (the person who executed

the Certification Of Facsimile Transmission), nor is it supported by "a copy of the sending unit's report confirming transmission." 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

26 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

#13

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

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 Diagonal Road, Suite 300/310
Alexandria, VA 22314

In re Application of:	
LE ROUX, Jean-Louis, et al.	DECISION
U.S. Application No.: 10/505,484	
PCT No.: PCT/FR03/00513	
International Filing Date: 17 February 2003	
Priority Date: 21 February 2002	
Atty Docket No.: 4444-042	
For: DYNAMIC DISTRIBUTED METHOD FOR LOCAL PROTECTION OF A LABEL-SWITCHING PATH	

This decision is issued in response to the "Request For Withdrawal Of Holding Of Abandonment – No Abandonment In Fact" filed 25 May 2006, treated herein as a renewed petition. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the Communication mailed by this Office on 12 May 2005 and petition Decision mailed on 28 March 2006.

The 12 May 2005 Communication informed applicants that, in order to avoid abandonment, an English translation of the international application and necessary extension fees were required.

The application was subsequently held abandoned for failure to provide the required translation and fees, and applicants filed a petition for withdrawal of the holding of abandonment, claiming that the required materials had been timely submitted by facsimile.

The 28 March 2006 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) to confirm the previous submission by facsimile of the English translation and extension fees.

On 25 May 2006, applicants filed the materials treated herein as a renewed petition to withdraw the holding of abandonment.

DISCUSSION

The present submission includes a statement from Tracy A. Luke, the person who executed the "Certification Of Facsimile Transmission" contained on the materials purportedly filed by applicants on 26 May 2005. Applicant has also included a copy of the facsimile transmission confirmation report from applicant's facsimile machine, confirming the 26 May 2005 transmission. These materials, in combination with the statements herein and in the previous petition, and USPTO records confirming receipt of the extension fee on 26 May 2005,[1] provide an acceptable showing that the "Supplemental Response To Notice Of Missing Requirements Under 35 U.S.C. 371" and the "Petition For Extension Of Time" accompanying the renewed petition (and included with the original petition filed 21 November 2005) were originally filed in the USPTO by facsimile on 26 May 2005. Based on the extension fee included with the 26 May 2005 facsimile submission, the 26 May 2005 filing is considered a timely response to the Notification Of Missing Requirements mailed 06 December 2004. It is noted, that for all purpose other than timeliness, these materials will be treated as having been filed on 21 November 2005, the date of receipt of the earliest-filed copy of these materials present in the application file).

The Notification Of Abandonment mailed 08 November 2005, based as it was on applicants' purported failure to file a timely and proper response to the Notification Of Missing Requirements mailed 06 December 2004, is appropriately vacated.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 08 November 2005 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 21 November 2005.

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

[1] It is noted, that upon receipt of the present renewed petition (which included a copy of the previously filed "Petition For Extension Of Time" and credit card authorization) the USPTO charged applicants $1,590 for the requested extension. This duplicative extension fee will be refunded to applicants.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

APR 21 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,599,835	: DECISION ON REQUEST
Moriya et al.	: FOR
Issue Date: 10/06/2009	: RECONSIDERATION OF
Application No. 10/505,485	: PATENT TERM ADJUSTMENT
Filed: 08/23/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
255522US28PCT	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 11, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred forty (1340) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred forty (1340) 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 three hundred forty (1340)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,599,835 B2

DATED : **October 6, 2009** **DRAFT**

INVENTOR(S) : Moriya 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 727 days.

Delete the phrase "by 727 days" and insert – by 1340 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARSTENS YEE & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

COPY MAILED

SEP 07 2005

OFFICE OF PETITIONS

Applicant: Lavjibhai
Appl. No.: 10/505,494
International Filing Date: February 6, 2003
Title: LASER DIAMOND BLOCKING MACHINE FOR FACETING THE BOTTOM OF A DIAMOND
Attorney Docket No.: CHKAC.00001
Pub. No.: US 2005/0145238 A1
Pub. Date: July 7, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 12, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error as it published the National Stage filing documents dated August 24, 2004 and not the amendments submitted with the application on filing.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The Office did not make a material error in publishing the application. The application was published as originally filed. The papers were properly indexed and scanned into the image file wrapper (IFW) because applicant did not properly submit the papers that he is now arguing should be the application papers published and examined.

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

[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).

requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 571-273-8300

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

COPY MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark Jozef Millem Mertens	:	
Application No. 10/505,499	:	ON PETITION
Filed: August 24, 2004	:	
Attorney Docket No. NL 020159	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 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 25, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 26, 2008. The Notice of Abandonment was mailed December 2, 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 $1,620; and (3) a proper statement of unintentional delay.

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

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 2 7 2007

OFFICE OF PETITIONS

JOSEPH S TRIPOLI
THOMSON LICENSING INC
PATENT DEPARTMENT
P O BOX 5312
PRINCETON, NJ 08543-5312

In re Application of
Pascal Benoit, et al.
Application No. 10/505,527
Filed: August 23, 2004
Attorney Docket No. PF020018

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 30, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 27, 2006. A Notice of Abandonment was mailed on January 23, 2007. On August 30, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Publishing Division to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

13 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of	:	
CHEVALIER, Pierre André Marc	:	
Application No.: 10/505,530	:	DECISION ON
PCT No.: PCT/FR03/00551	:	
Int. Filing Date: 19 February 2003	:	REQUEST
Priority Date: 20 February 2002	:	
Attorney's Docket No.: 12300.P002	:	UNDER 37 CFR 1.42
For: METHOD AND DEVICE ... DURING	:	
PERSONAL USE	:	

This decision is in response to applicant's submission of a declaration under 35 USC 371 filed in the United States Patent and Trademark Office on 25 May 2005. The declaration includes an indication that inventor Pierre Chevalier is deceased. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 19 February 2003, applicant filed international application PCT/FR03/00551, claiming a priority date of 20 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 September 2003. The deadline for entry into the national stage in the United States was 20 August 2004.

On 19 August 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 21 April 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 25 May 2005, applicant submitted an executed declaration.

DISCUSSION

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

deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, the declaration is executed by the legal representative for the deceased inventor. It provides the necessary information for the deceased inventor and the legal representative. The declaration complies with both 37 CFR 1.497(a)-(b) and 37 CFR 1.42

CONCLUSION

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

The application has a date of 25 May 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

0 7 NOV 2006

Bill R. Naifeh
12655 N. Central Expressway
Tenth Floor, Suite 1014, LB 55
Dallas, TX 75243

In re Application of	:	
TSCHAKALOFF, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/505,531	:	
PCT No.: PCT/EP03/01796	:	UNDER 37 CFR 1.181
Int. Filing Date: 21 February 2003	:	
Priority Date: 22 February 2002	:	
Atty Docket No.: 1010-004	:	
For: SOFT TISSUE SUTURE ANCHOR	:	

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181 and 1.8(b)" filed 05 September 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 21 February 2003, applicant filed international application PCT/EP03/01796, which claimed priority of an earlier application filed 22 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, 22 August 2004.

On 23 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, an application data sheet and a preliminary amendment.

On 25 February 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 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 12 July 2006, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicant that the present application was abandoned as to the United States for failure to reply to the Form PCT/DO/EO/905 mailed 25 February 2005.

On 05 September 2005, applicant filed the present petition under 37 CFR 1.181

requesting withdrawal of the abandonment, indicating that a signed declaration was filed on 23 August 2005.

DISCUSSION

37 CFR 1.8(b) states:

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

Applicant's present filing satisfies items (1) and (2) above.

Regarding item (3), applicant's petition references inclusion of transmission report for the purported filing of 23 August 2005 as "Attachment A". However, no such attachment was included in the filed papers. In addition, applicant has not provided a statement with firsthand knowledge of the fax transmission.

MPEP 711.03(c) details that as stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

As applicant has not included a copy of the transmission report nor a firsthand statement of the faxing of the response, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED without prejudice**.

This application remains **ABANDONED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

18 DEC 2006

Bill R. Naifeh
12655 N. Central Expressway
Tenth Floor, Suite 1014, LB 55
Dallas, TX 75243

In re Application of	:	
TSCHAKALOFF, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/505,531	:	
PCT No.: PCT/EP03/01796	:	PETITION UNDER
Int. Filing Date: 21 February 2003	:	
Priority Date: 22 February 2002	:	37 CFR 1.181
Attorney Docket No.:1010-004	:	
For: SOFT TISSUE SUTURE ANCHOR	:	

This decision is in response to applicant's renewed petition under 37 C.F.R. §1.181 filed 04 December 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 November 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present national stage application. Applicant was afforded two months to file any request for reconsideration.

On 04 December 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

With the filing of the present renewed petition and accompanying exhibits applicant has satisfied all of the items of concern raised in the decision mailed 07 November 2006. Specifically, applicant has currently provided a firsthand statement as to the facsimile transmission of 23 August 2005, as well as, included a copy of the transmission report showing a successful transmission to the appropriate USPTO fax number. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 is **GRANTED**.

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

The application has an international filing date of 21 February 2003 under 35 U.S.C. 363, and will be given a date of **05 September 2006** 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/04/07

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/505535** Patent No.: **7089763**

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**.

A. Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Cheryl J. Tyl
SPE

3744
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070813

DATE : August 13, 2007

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 7215257

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: Brian Zimmerman **Art Unit** 2612

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

COPY MAILED

OCT 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Ralf WIEDEMANN et al.	:	
Application No. 10/505,565	:	DECISION ON PETITION
Filed: August 24, 2004	:	
Attorney Docket No. **102792-333**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 07, 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 March 08, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of December 07, 2007 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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 $1050 extension of time fee submitted with the petition on August 19, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

20 JUN 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Burns Doane, Swecker & Mathis, LLP
PO Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
HALLIN (deceased) et al	:	
Application No.: 10/505,586	:	
PCT No.: PCT/SE03/00375	:	
Int. Filing Date: 06 March 2003	:	DECISION
Priority Date: 11 March 2002	:	
Atty. Docket No.: 003301-171	:	
For: DETONATOR SYSTEM AND	:	
METHOD IN CONNECTION...	:	

This is in response to the declaration filed in the U.S. Patent and Trademark Office (USPTO) on 08 October 2004, which has been treated as a request for acceptance of the application under 37 CFR 1.42 and 1.497(b)(2) as being filed on behalf of a deceased co-inventor. The request is **GRANTED** as discussed below.

A review of the application file reveals that the present declaration has been executed by co-inventors Jonsson and Westberg, and by Anne-Marie Bokvist as the heir and legal representative of deceased co-inventor Sune Hallin, and further that the declaration satisfies the requirements of 37 CFR 1.497(b)(2).

A review of the application file also reveals that, with the filing of the present declaration and the accompanying surcharge for late filing of the declaration, the application satisfies the requirements for entry into the national stage in the United States under 35 U.S.C. 371.

The application has an international filing date of 06 March 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **08 October 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER GREENBERG STEMER LLP
PO BOX 2480
HOLLYWOOD, FL 33022-2480

COPY MAILED

SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Karl Heinz GAST	:	
Application No. 10/505,601	:	DECISION ON PETITION
Filed: February 28, 2005	:	TO WITHDRAW
Attorney Docket No. MOH-P040094	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 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 Laurence A. Greenberg on behalf of the attorneys of record associated with Customer No. 24131.

The attorneys of record associated with Customer No. 24131 have been withdrawn.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KARL HEINZ GAST
ROTHENACKERSTRASSE 40
AURACHTAL 91086
GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LORD CORPORATION
PATENT & LEGAL SERVICES
111 LORD DRIVE
P.O. Box 8012
CARY, NC 27512-8012

COPY MAILED

MAY 2 7 2009

OFFICE OF PETITIONS

In re Application of Michael et al. :
Application No. 10/505,602 : Decision on Petition
Filing Date: February 28, 2005 :
Attorney Docket No. IR-3291 (MVE) :

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 19, 2008, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 20, 2008. A Notice of Abandonment was mailed on March 3, 2009.

The instant petition requests revival of the application.

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.

Petitioner has submitted a reply to the non-final Office action in the form of an amendment. Petitioner has submitted the required petition fee of $1,620. 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.

The petition was accompanied by a payment of $1,110 for a three-month extension of time. However, an extension of time is not necessary when reviving an application. Therefore, the $1,110 has been credited back to petitioner's deposit account.

Technology Center Art Unit 2726 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

COPY MAILED

NOV 20 2006

OFFICE OF PETITIONS

In re Application of

STARK, et al.
Application No. 10/505,605
Filed: August 23, 2004
Attorney Docket No. 246152023100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas E. Ciotti on behalf of all attorneys of record. 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Jacobus Stark**
Joost van Ospad 31
ZM Rotterdam, Netherlands 3069 ZM

cc: **Mr. Bryan H. Davidson**
Nixon & Vanderhye PC
901 North Glebe Road
Arlington, VA 22203-1808

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/505,605	08/23/2004	Jacobus Stark	246152023100

CONFIRMATION NO. 9266

OC000000021294720

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

COPY MAILED

MAR 2 5 2008

OFFICE OF PETITIONS

In re Patent No. 7,293,672	:	
Issue Date: November 13, 2007	:	
Application No. 10/505,628	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. 00152/0201647-US0	:	

This is a decision on the petition filed December 5, 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.

Docket No.: 00152/0201647-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Takashi Mori et al.

Patent No.: 7,293,672

Issued: November 13, 2007

For: CHEMICAL FEEDING DEVICE

PETITION UNDER CFR 1.183 AND REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.323

ATTENTION: OFFICE OF PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Certificate of Correction Branch

Dear Sir:

The above-identified patent contains an error that arose from an incomplete or erroneous assignee name furnished in item 3 of the Issue Fee Transmittal (PTOL-85B). The error is of a clerical or typographical nature, the correction of which does not constitute new matter or require reexamination, and the failure to include the correct assignee name on the PTOL-85B form was inadvertent. Accordingly, Patentee requests the following correction.

In the Assignee:

Please insert --Sanyo Electric Biomedical Co. Ltd., Moriguchi-Shi, Osaka, Japan--

Patentee respectfully requests that the Commissioner waive the requirements of 37 CFR 3.81 to permit the correct name of the assignee to be provided after issuance of the patent.

Adjustment date: 03/25/2008 CKHLOK
01/11/2008 INTEFSW 00001004 10505628
01 FC:1464 -130.00 OP

Adjustment date: 03/25/2008 CKHLOK
12/06/2007 INTEFSW 00001930 10505628
02 FC:1811 -100.00 OP

03/25/2008 CKHLOK 00000015 7293672
01 FC:1464 130.00 OP
02 FC:1811 100.00 OP

Enclosed are:

(1) A copy of the Notice of Recordation of Assignment Document or abstract of the assignment from the Electronic Patent Assignment System;

(2) the fee set forth in 37 CFR 1.17(h) $130.00;

(3) the petition Fee set forth in 37 CFR 1.20(a) $100.00; and

(4) a copy of form PTO/SB/44.

Please charge our Credit Card in the amount of $230.00 for this filing. The Commissioner is authorized to charge any deficiency of up to $300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Patentee respectfully requests that the petition be granted and that a Certificate of Correction be issued.

Dated: December 5, 2007

Respectfully submitted,

By_____

Flynn Barrison
Registration No.: 53,970
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,634	08/19/2004	Paolo Targetti	1014.1035	1606

41226 7590 07/08/2010
POLLACK, P.C.
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK, NY 10017

EXAMINER
SAWHNEY, HARGOBIND S

ART UNIT	PAPER NUMBER
2885	

MAIL DATE	DELIVERY MODE
07/08/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POLLACK, P.C.
THE CHRYSLER BUILDING
132 EAST 43RD STREET, SUITE 760
NEW YORK, NY 10017

In re Application of:
PAOLO TARGETTI
Serial No.: 10/505,634
Filed: August 19, 2004
Docket Number: 1014.1035
Title: DISPOSABLE LIGHTING FIXTURE WITH A FLUORESCENT LIGHT SOURCE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on November 12, 2009, to remove the examiner from being in charge of the application file and to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition is **DENIED** as to removing the examiner from being in charge of the application file and **GRANTED** as to withdrawing the holding of abandonment.

A final Office action was mailed on April 28, 2008, setting a three-month shortened statutory period for reply. A proposed amendment was filed on August 28, 2008 and its entry was denied in an Advisory Action mailed September 25, 2008. A second proposed amendment was filed on November 14, 2008. A Notice of Abandonment was mailed on November 28, 2008.

In support of removing the examiner from jurisdiction of the application file, petitioner asserts that during several conversations with the examiner and his supervisor, petitioner was misled into believing that agreed upon amendment would have placed the application in condition for allowance. However, the amendments to the claims have led to new grounds of rejection and the Office actions made final. Petitioner indicates that there were 9 (nine) interviews conducted with the examiner but only one was made of record by an Examiner's Interview Summary, form PTOL-413.Petition, page 5. Petitioner recounts several instances where applicant's counsel felt being misled by the examiner and SPE into believing that the claims would have been allowed if amended. While it is regrettable that allowance of the claims could not be reached in a timely manner, applicant has the right to appeal any rejection after the second Office action on the merits was issued by the examiner. After a second action on the merits, any disagreement with

the examiner's finding of unpatentability of any rejected claim may be appealed. While the examiner's actions during the interviews as characterized by petitioner may have been inappropriate, the examiner's actions or inactions did not rise to the level of abuse of discretion or authority that warrants removal of the examiner from being in charge of the application. The petition to remove the examiner from being in charge of the application is hereby denied.

Regarding the petition to withdraw the holding of abandonment, it is asserted that during the interview with the examiner and his supervisory patent examiner (SPE) on October 23, 2008, before the expiration of the maximum statutory period for reply to the final Office action, the SPE indicated that the amendment after final action filed August 25, 2008 would be entered. This assertion is not made of record by the examiner but is corroborated by the SPE and the examiner. By agreeing to enter the amendment filed August 25, 2008, the examiner and the SPE had withdrawn the finality of the Office action and accepted the amendment filed August 24, 2008 as a proper reply to the outstanding Office action of April 28, 2008. The statutory period for reply set in the Office action of April 28, 2008 stopped running against the applicant as of October 23, 2008, the date the examiner and SPE agreed to have the amendment filed August 24, 2008 entered.

In view of the special circumstances surrounding the prosecution of this application and in view of the facts indicated above, the holding of abandonment is hereby withdrawn and the Notice of Abandonment vacated. The petition to withdraw the holding of abandonment of the instant application is hereby granted.

The amendments filed August 25, 2008, and November 14, 2008 will be entered and the examiner will take prompt and appropriate action taking the above-noted amendments into consideration.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

Richard K. Seidel, TC Director
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/096,924	03/31/2005	David A. Wink	404812000401	8233

28381 7590 07/15/2010
ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

EXAMINER
SZNAIDMAN, MARCOS L

ART UNIT	PAPER NUMBER
1612	

NOTIFICATION DATE	DELIVERY MODE
07/15/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IP.Docketing@aporter.com

OPAP IAP8
APR 2 6 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/096,924	03/31/2005	David A. Wink	404812000401

CONFIRMATION NO. 8233

POWER OF ATTORNEY NOTICE

David A. Wink
21000 Leitersburg Pike
Hagerstown, MD 21742

OC000000041153573

Date Mailed: 04/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/23/2010.

- 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).

/dedotson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

RECEIVED
OPAP/IAP
APR 2 8 2010

Office Action Summary	Application No.	Applicant(s)	
	11/096,924	WINK ET AL.	
	Examiner	Art Unit	
	MARCOS SZNAIDMAN	1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 February 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13,14,16,19,20,22,23,25-33 and 37-45* is/are pending in the application.

4a) Of the above claim(s) *16,22 and 28-30* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13,14,19,20,23,25-27,31-33 and 37-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *1 page 02/23/10*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to applicant's reply filed on February 22, 2010.

Receipt of Declarations under 37 CFR 1.132 is acknowledged.

Status of Claims

Claims 13-14, 16, 19-20, 22-23, 25-33 and 37-45 are currently pending and are the subject of this office action.

In the reply filed March 18, 2008, Applicant elected without traverse the species: IPA/NO (Na(CH3)2CHNHN(O)NO).

However, since the treatment of systolic heart failure in subjects in need of myocardial contractility increases caused by primary as opposed to secondary effects, comprising the administration of IPA/NO is free of prior art, in the office action dated 11/23/09 the examination was expanded to the following HNO donor species: Angeli's salt (Na2N2O3).

Applicant elected species (IPA/NO) reads on claims: 13-14, 19-20, 25-27, 31-33 and 37-45.

The expanded species (Angeli's salt) reads on the following claims: 13-14, 19-20, 23, 25-27, 31-33, 37-45.

The combined set of claims that read on one or both species and, as a consequence, are presently under examination are: 13-14, 19-20, 23, 25-27, 31-33, and 37-45.

As a consequence, claims 16, 22, and 28-30 are withdrawn from consideration.

Priority

The present application is a CON of Application No. 10/226,412 (now patent US 6,936,639) filed on 08/21/2002.

Rejections and/or Objections and Response to Arguments

Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated (Maintained Rejections and/or Objections) or newly applied (New Rejections and/or Objections, Necessitated by Amendment or New Rejections and/or Objections not Necessitated by Amendment). They constitute the complete set presently being applied to the instant application.

Claim Rejections - 35 USC § 112 (Maintained rejection)

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-14, 19-20, 25-27, 30-33, and 37-45 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the

time the application was filed, had possession of the claimed invention. This is a written description rejection.

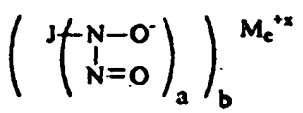
The reasons for this rejection have been provided in the previous office action dated November 23, 2009, the text of which is incorporated by reference herein.

Applicant's arguments have been fully considered but are not persuasive.

Applicant argues that:

There are methods described in the literature to detect HNO gas, and as such the skilled in the art will be able to determine compounds capable of donating HNO under physiological conditions.

Applicant further argues that the specification discloses a number of HNO donating compounds, including Angeli's salt, IPA/NO, Sulfi/NO, Piloty's acid, S-nitrosothiols, thionitrates and compounds of the formula:



Specification, pages 8-10. The specification further describes an HNO/NO- donating compound as "any compound that donates HNO/NO- and has a safety profile indicating the compound would be tolerated by a subject in the amount necessary to achieve a therapeutic effect." Specification, page 8. Thus, the specification provides a

representative number of examples and identifying characteristics to describe the claimed compounds.

Compliance with the written description requirement does not require the disclosure of every permutation encompassed by the claims. To contend otherwise would contradict established jurisprudence, which teaches that a patent may be infringed by technology developed after a patent issues. United States Steel Corp. v. Phillips Petroleum Co., 865 F.2d 1247, 1251, 9 U.S.P.Q.2d 1461, 1464 (Fed. Cir. 1989). A related and equally well-established principle of patent law is that claims "may be broader that the specific embodiment disclosed in a specification." Ralston Purina Co. v. Far-Mar-Co., 772 F.2d 1570, 1575 (Fed. Cir. 1985), quoting *In re Rasmussen*, 650 F.2d 1212, 1215 (C.C.P.A. 1981). In light of the numerous embodiments and identifying characteristics disclosed in the specification, and the knowledge in the art as of the effective filing date, the arguments of record fail to show that the specification lacks adequate written description.

Examiner's response:

MPEP 2163 states: The written description requirement for a claimed genus may be satisfied through sufficient description of a representative number of species by actual reduction to practice (see i)(A), above), reduction to drawings (see i)(B), above), or by disclosure of relevant, identifying characteristics, i.e., structure or other physical and/or chemical properties, by functional characteristics coupled with a known or disclosed correlation between function and structure, or by a combination of such

identifying characteristics, sufficient to show the applicant was in possession of the claimed genus (see i)(C), above). See *Eli Lilly*, 119 F.3d at 1568, 43 USPQ2d at 1406. A "representative number of species" means that the species which are adequately described are representative of the entire genus. Thus, when there is substantial variation within the genus, one must describe a sufficient variety of species to reflect the variation within the genus. The disclosure of only one species encompassed within a genus adequately describes a claim directed to that genus only if the disclosure "indicates that the patentee has invented species sufficient to constitute the gen[us]." See *Enzo Biochem*, 323 F.3d at 966, 63 USPQ2d at 1615; Noelle v. Lederman, 355 F.3d 1343, 1350, 69 USPQ2d 1508, 1514 (Fed. Cir. 2004) (Fed. Cir. 2004)("[A] patentee of a biotechnological invention cannot necessarily claim a genus after only describing a limited number of species because there may be unpredictability in the results obtained from species other than those specifically enumerated."). "A patentee will not be deemed to have invented species sufficient to constitute the genus by virtue of having disclosed a single species when ... the evidence indicates ordinary artisans could not predict the operability in the invention of any species other than the one disclosed."

MPEP 2163 also states: If a representative number of adequately described species are not disclosed for a genus, the claim to that genus must be rejected as lacking adequate written description under 35 U.S.C. 112, para. 1.

Although Applicant has proved that the skilled in the art will be able to determine compounds capable of donating HNO under physiological conditions, the above formula

is so general (i.e. J is an organic or inorganic moiety) that the examples provided by applicant are not considered representative enough of the larger genus claimed. Applicant has not provided a reasonable correlation between structure and function (i.e. of the particular compounds capable of "donating HNO"). The ability to screen for compounds is not a disclosure of the compounds themselves, but merely a "wish or plan" to provide same.

Claim Rejections - 35 USC § 103 (Maintained rejection)

1) Claims 13-14, 26, 31, 33, 37, 39, and 43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Paolocci et. al. (PNAS (2001) 98:10463-10468, cited by Applicant, cited in prior office action).

2) Claims 19-20, 23, 25, 27, 32, 38, 40-42 and 44-45 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Paolocci et. al. (PNAS (2001) 98:10463-10468, cited by Applicant, cited in prior office action) as applied to claims 13-14, 26, 31, 33, 37, 39, and 43 above, further in view of Remme et. al. (European Heart Journal (2001) 22:1527-1560, cited by Applicant, cited in prior office action).

The reasons for this rejection have been provided in the previous office action dated November 23, 2009, the text of which is incorporated by reference herein.

Applicant's arguments have been fully considered but are not persuasive.

Applicant argues that:

Applicant submitted a 37 C.F.R. 1.132 declaration, wherein the co-authors of the PNAS reference: Walter F. Saavedra, Cristian Martignani, Takayoshi Isoda, Joshua M. hare and Michael G. Espey did not contribute to the conception of the invention claimed in the patent application.

As a consequence the co-authors of the PNAS reference that are considered inventors of the instant application are: Nazareno Paolocci, Katrina M. Miranda, Jon. M. Fukuto, Martin Feelisch, David Wink and David A. Kass.

Examiner's response:

The above is still a different inventive entity than the instant application which includes all of the above inventors plus Tatsuo Katori, which is not a co-author of the PNAS reference.

As a consequence the reference of Paolocci et. al. (PNAS (2001) 98:10463-10468) is still valid prior art under 37 C.F.R 102(a) because it is by another inventive entity.

Withdrawn Rejections and/or Objections

Claims rejected under Nonstatutory Double Patenting).

Applicant submitted a Terminal Disclaimer

Rejection under Nonstatutory Double Patenting is withdrawn.

Conclusion

No claims are allowed.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS SZNAIDMAN whose telephone number is (571)270-3498. The examiner can normally be reached on Monday through Thursday 8 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick F. Krass can be reached on 571 272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MARCOS SZNAIDMAN/
Examiner, Art Unit 1612
April 1, 2010

/Frederick Krass/
Supervisory Patent Examiner, Art Unit 1612

FORM PTO-1449 INFORMATION DISCLOSURE STATEMENT	ATTY. DOCKET NO. P30951US01/20642.005	APPLICATION NO. 11/096,924
	APPLICANTS David A. WINK *et al.*	
	FILING DATE March 31, 2005	GROUP 1612

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	EA1						
	AB1						

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AC1						Yes No
	AD1						

OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AE1	Bazylinski *et al.*, "Metmyoglobin and Methemoglobin as Efficient Traps for Nitrosyl Hydride (Nitroxyl) in Neutral Aqueous Solution," *J. Am. Chem. Soc.* 107:7982-7986 (1985)
	AF1	Bazylinski *et al.*, "Evidence from the Reaction Between Trioxodinitrate (ii) and ^{15}NO That Trioxodinitrate (II) Decomposes into Nitrosyl Hydride and Nitrite in Neutral Aqueous Solution," *Inorg. Chem.* 24:4285-4288 (1985)
	AG1	Bonner *et al.*, "The Aqueous Solution Chemistry of Nitrogen in Low Positive Oxidation States," *Comments Inorg. Chem.* 7(4):215-2374 (1988)
	AH1	Doyle *et al.*, "Oxidation and Reduction of Hemoproteins by Trioxodinitrate (II). The Role of Nitrosyl Hydride and Nitrite," *J. Am. Chem. Soc.* 110:593-599 (1988)
	AI1	King *et al.*, "[22] Chemical Approaches Toward Generation of Nitroxyl," *Methods in Enzymology* 301:211-220 (1999)
	AJ1	Kohout *et al.*, "On the Role of the Nitroxyl Molecule in the Reaction of Hydrogen Atoms with Nitric Oxide," *J. Am. Chem. Soc.* 87(24):5795-5796 (1965)
	AK1	Shafirovich *et al.*, "Nitroxyl and its anion in aqueous solutions; Spin states, protic equilibria, and reactivities toward oxygen and nitric oxide," *Proc. Natl. Acad. Sci. USA* 99(11):7340-7345 (2002)
	AL1	Sharpe *et al.*, "Reactions of Nitric oxide with mitochondrial cytochrom *c*: a novel mechanism for the formation of nitroxyl anion and peroxynitrite," *Biochem. J.* 332:9-19 (1998)
	AM1	Smith *et al.*, "The Alleged Role of Nitroxyl in Certain Reactions of Aldehydes and Alkyl Halides," *J. Am. Chem. Soc.*, 82:5731-5740 (1960)

EXAMINER	/Marcos Sznaidman/	DATE CONSIDERED 04/08/2010

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /M.S./

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIAN M. DINGMAN
MIRICK O'CONNELL DEMALLIE & LOUGEE
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581-3941

COPY MAILED

APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Patrick E. Mack et al	:	
Application No. 10/505,642	:	DECISION GRANTING PETITION
Filed: August 19, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 18451-00004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE/amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of March 17, 2006, is accepted as having been unintentionally delayed.

For future reference, petitioner is encouraged to note 37 CFR 1.4(c), where each distinct subject matter should be filed on separate paper.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1712.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Rec'd PCT/PTC 18 AUG 2004

特　許　協　力　条　約

PCT

国際予備審査報告

（法第１２条、法施行規則第56条）
〔ＰＣＴ３６条及びＰＣＴ規則70〕

出願人又は代理人の書類記号　１４０５７３－９６０	今後の手続きについては、国際予備審査報告の送付通知（様式ＰＣＴ／ＩＰＥＡ／４１６）を参照すること。	
国際出願番号 ＰＣＴ／ＪＰ０３／０１８８９	国際出願日（日.月.年）　２０．０２．２００３	優先日（日.月.年）　２０．０２．２００２
国際特許分類（ＩＰＣ）　Ｉｎｔ．Ｃｌ⁷ ：　Ｃ０８Ｆ２９０／０６，Ｇ０２Ｂ３／００，Ｇ０２Ｂ３／０８		
出願人（氏名又は名称）　大日本印刷株式会社		

１．　国際予備審査機関が作成したこの国際予備審査報告を法施行規則第57条（ＰＣＴ３６条）の規定に従い送付する。

２．　この国際予備審査報告は、この表紙を含めて全部で　3　ページからなる。

☐　この国際予備審査報告には、附属書類、つまり補正されて、この報告の基礎とされた及び／又はこの国際予備審査機関に対してした訂正を含む明細書、請求の範囲及び／又は図面も添付されている。
（ＰＣＴ規則70.16及びＰＣＴ実施細則第６０７号参照）
この附属書類は、全部で　＿＿＿＿　ページである。

３．　この国際予備審査報告は、次の内容を含む。

Ⅰ　☒　国際予備審査報告の基礎

Ⅱ　☐　優先権

Ⅲ　☐　新規性、進歩性又は産業上の利用可能性についての国際予備審査報告の不作成

Ⅳ　☐　発明の単一性の欠如

Ⅴ　☒　ＰＣＴ３５条(2)に規定する新規性、進歩性又は産業上の利用可能性についての見解、それを裏付けるための文献及び説明

Ⅵ　☐　ある種の引用文献

Ⅶ　☐　国際出願の不備

Ⅷ　☐　国際出願に対する意見

国際予備審査の請求書を受理した日　２５．１２．２００３	国際予備審査報告を作成した日　３０．０１．２００４	
名称及びあて先 日本国特許庁（ＩＰＥＡ／ＪＰ） 郵便番号１００－８９１５ 東京都千代田区霞が関三丁目４番３号	特許庁審査官（権限のある職員）　４Ｊ　８１１８ 小　野　寺　　務　　㊞ 電話番号　０３－３５８１－１１０１　内線　３４５５	

様式ＰＣＴ／ＩＰＥＡ／４０９（表紙）（１９９８年７月）

国際予備審査報告

国際出願番号　ＰＣＴ／ＪＰ０３／０１８８９

Ｉ．　国際予備審査報告の基礎

1．　この国際予備審査報告は下記の出願書類に基づいて作成された。（法第６条（ＰＣＴ１４条）の規定に基づく命令に応答するために提出された差し替え用紙は、この報告書において「出願時」とし、本報告書には添付しない。ＰＣＴ規則70.16,70.17）

☒ 出願時の国際出願書類

☐ 明細書　第＿＿＿＿＿＿＿＿ページ、　出願時に提出されたもの
明細書　第＿＿＿＿＿＿＿＿ページ、　国際予備審査の請求書と共に提出されたもの
明細書　第＿＿＿＿＿＿＿＿ページ、　＿＿＿＿＿＿＿＿付の書簡と共に提出されたもの

☐ 請求の範囲　第＿＿＿＿＿＿＿＿項、　出願時に提出されたもの
請求の範囲　第＿＿＿＿＿＿＿＿項、　ＰＣＴ１９条の規定に基づき補正されたもの
請求の範囲　第＿＿＿＿＿＿＿＿項、　国際予備審査の請求書と共に提出されたもの
請求の範囲　第＿＿＿＿＿＿＿＿項、　＿＿＿＿＿＿＿＿付の書簡と共に提出されたもの

☐ 図面　第＿＿＿＿＿＿＿＿ページ／図、　出願時に提出されたもの
図面　第＿＿＿＿＿＿＿＿ページ／図、　国際予備審査の請求書と共に提出されたもの
図面　第＿＿＿＿＿＿＿＿ページ／図、　＿＿＿＿＿＿＿＿付の書簡と共に提出されたもの

☐ 明細書の配列表の部分　第＿＿＿＿＿＿＿＿ページ、　出願時に提出されたもの
明細書の配列表の部分　第＿＿＿＿＿＿＿＿ページ、　国際予備審査の請求書と共に提出されたもの
明細書の配列表の部分　第＿＿＿＿＿＿＿＿ページ、　＿＿＿＿＿＿＿＿付の書簡と共に提出されたもの

2．　上記の出願書類の言語は、下記に示す場合を除くほか、この国際出願の言語である。

上記の書類は、下記の言語である＿＿＿＿＿＿語である。

☐ 国際調査のために提出されたＰＣＴ規則23.1(b)にいう翻訳文の言語
☐ ＰＣＴ規則48.3(b)にいう国際公開の言語
☐ 国際予備審査のために提出されたＰＣＴ規則55.2または55.3にいう翻訳文の言語

3．　この国際出願は、ヌクレオチド又はアミノ酸配列を含んでおり、次の配列表に基づき国際予備審査報告を行った。

☐ この国際出願に含まれる書面による配列表
☐ この国際出願と共に提出された磁気ディスクによる配列表
☐ 出願後に、この国際予備審査（または調査）機関に提出された書面による配列表
☐ 出願後に、この国際予備審査（または調査）機関に提出された磁気ディスクによる配列表
☐ 出願後に提出した書面による配列表が出願時における国際出願の開示の範囲を超える事項を含まない旨の陳述書の提出があった
☐ 書面による配列表に記載した配列と磁気ディスクによる配列表に記録した配列が同一である旨の陳述書の提出があった。

4．　補正により、下記の書類が削除された。
☐ 明細書　第＿＿＿＿＿＿＿＿ページ
☐ 請求の範囲　第＿＿＿＿＿＿＿＿項
☐ 図面　図面の第＿＿＿＿＿＿＿＿ページ／図

5．☐ この国際予備審査報告は、補充欄に示したように、補正が出願時における開示の範囲を越えてされたものと認められるので、その補正がされなかったものとして作成した。（ＰＣＴ規則70.2(c)　この補正を含む差し替え用紙は上記１．における判断の際に考慮しなければならず、本報告に添付する。）

Ｖ．　新規性、進歩性又は産業上の利用可能性についての法第１２条（ＰＣＴ３５条(2)）に定める見解、それを裏付ける文献及び説明

１．　見解

新規性（Ｎ）	請求の範囲	１－９	有
	請求の範囲		無
進歩性（ＩＳ）	請求の範囲	１－９	有
	請求の範囲		無
産業上の利用可能性（ＩＡ）	請求の範囲	１－９	有
	請求の範囲		無

２．　文献及び説明（ＰＣＴ規則70.7）

請求の範囲１－９に記載された発明は、国際調査報告に引用されたいずれの文献にも記載されておらず、当業者にとって自明なものでもない。

3 1 MAY 2007

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert Hart
28 Eats Jackson Boulevard
10th Floor, Suite H528
Chicago, IL 60604

In re Application of	:
Alt, Helmut	: DECISION ON
US Application No.: 10/505,654	:
PCT Application No.: PCT/EP03/01705	: PETITION UNDER
Int. Filing Date: 20 February 2003	:
Priority Date: 22 February 2002	: 37 CFR 1.137 (b)
Attorney's File Reference: None	:
For: ADDITIVE COMPONENTS FRO THE IMPROVEMENT OF THE PREFORMANCE OF OLEFIN POLYMERISATION CATALYSTS	

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 06 July 2006 is **GRANTED**.

BACKGROUND

On 20 February 2003, applicants filed international application PCT/EP03/01705. The international application claims a priority date of 22 February 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 28 August 2003. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 23 August 2004 (22 August 2004 being a Sunday).

On 23 August 2004, applicant filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by a copy of the international application and the basic national fee of $540. These papers were assigned Application No. 10/505,654.

On 24 March 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFCATION OF MISSING REQUIREMENTS" (Form PCT/DO/EO/905) indicating that applicant was required to file oath or declaration in compliance with 37 CFR 1.497 (a) and (b). On 22 July 2005 applicant filed an executed declaration.

On 23 September 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the " NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/ DO/EO/916) indicating that the declarations fail to identify all the inventors of record.

On December 23, 2005 applicant filed a proper executed declaration as required by 35 U.S.C. 371 (c)(4) executed declaration and a two month extension of time fee of $255. However, the declaration was not accepted by the United States Patent and Trademark Office, since the application became abandoned as of midnight on the 24 October 2005.

On 10 February 2006, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFCATION OF ABANDOMENT" (Form PCT/DO/EO/909) indicating applicant has failed to timely respond to the Notification of Missing Requirements mailed 24 March 2005 with in the time period set therein. The application became abandoned as of midnight on the 24 October 2005.

On 06 July 2006, applicants filed the instant petition for revival accompanied by, *inter alia,* a defective declaration and the petition fee of $750.

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 20 February 2003 under 35 U.S.C. 363 and a date of 23 December 2005 under 35 U.S.C. 371 (c)(1) (c)(2)(c)(4). Since the application was abandoned, the two month extension of time fee of $225 charged 23 December 2005 will be **REFUNDED** to applicant. The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Newton Edwards
PCT Legal Administration Detailee
PCT Special Programs Office
Telephone: 571-272-6094

Leonard Smith
Supervisory PCT Legal Examiner
PCT Legal Office

07 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael D. White
Blank Rome LLP
600 New Hampshire Ave, NW
Washington, DC 20005

In re Application of	:	
Vana	:	
Application No.: 10/505,656	:	
PCT No.: PCT/CZ02/00004	:	
Int. Filing Date: 24 January 2002	:	DECISION
Priority Date: None	:	
Attorney Docket No.: 000748.NEW1	:	
For: Method For Production Of Plant Extracts	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 24 August 2004.

BACKGROUND

This international application was filed on 24 January 2002, claimed no earlier priority date, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 21 August 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 24 July 2004. This international application had become abandoned with respect to the national stage in the U.S. for failure to timely file the full required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee was filed on 24 August 2004.

Regarding requirement (2), the petition fee was filed on 24 August 2004.

Regarding requirement (3), the petition includes a statement that "The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This

statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Review of the declaration of the inventors filed on 14 September 2004 reveals that it does not separately list both the post office address and residence of the inventor. However, insofar as this defect may be remedied by the submission of an Application Data Sheet. The declaration is in compliance with 37 CFR 1.497(a) and (b) and is being accepted for purposes of entry into the national stage in the United States under 35 U.S.C. 371.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **24 August 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF ALBERT WAI-KIT
CHAN PLLC
141-07 20TH AVENUE
WORLD PLAZA SUITE 604
WHITESTONE NY 11357

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Nai-Kong V. Cheung	:	
Application No. 10/505,658	:	ON REQUEST FOR
Filed: August 20, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 638-C-PCT-US	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 29, 2009. Applicant believes that the correct total PTA to date is 779 days, not 611 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment is acknowledged.

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).

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

20 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

H3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael D. Schumann
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903

In re Application of	:
NAKAMURA, *et al.*	:
US Application No.: 10/505,681	: DECISION ON
PCT Application No.: PCT/JP02/08681	:
Int. Filing Date: 28 August 2002	: PETITION UNDER
Priority Date: 29 August 2001	:
Attorney's File Reference: 14543.4USWO	: 37 CFR 1.137(b)
For: OPERATION APPARATUS AND	:
OPERATION SYSTEM	:

This decision is in response to applicants' "Petition for Revival Under 37 C.F.R. § 1.137(b)" filed 24 August 2004. The petition is **GRANTED**.

BACKGROUND

On 28 August 2002, applicants filed international application PCT/JP02/08681. The international application designated the United States and did claim priority to an earlier filed application. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 29 February 2004. The application became abandoned as of midnight on 29 February 2004 for failure to pay the basic national fee.

On 24 August 2004 applicant filed a petition to revive under 37 CFR 1.37(b). The petition was accompanied by, *inter alia*, a purported translation of the international application, 12 sheets of formal drawings, a signed combined declaration and power of attorney, an assignment of the invention, declarations of the inventors and of the assignee, a form PTO 1390, and checks in the amounts of $40, $460, and $1330, for the assignment recording, filing, and petition fees, respectively.

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 proper reply requires the filing of the oath or

declaration and the surcharge for submitting the oath or declaration later than 30 months from the priority date.

The submission of the authorization to charge Deposit Account Number 13-2725 satisfies the requirement under 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 entry of the US national phase of PCT application of PCT/JP02/08681 ... was unintentional from 29 February 2004, to the filing date of the accompanying petition" 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 of 37 CFR 1.137(b) have been met.

Article 22 of the Treaty requires applicants to furnish a translation to the designated Office. Applicants are required to submit an English translation of the international application pursuant to 35 USC 371(c)(2) and 37 CFR 1.495(c). Applicants' attention is directed to 35 U.S.C. 351(a), "Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations." 37 CFR 1.431(a) defines an international application as being the Request, description, claims, abstract and drawings. PCT Rule 49 requires text in the drawings to be translated and for the translated text matter to appear on drawings in a prescribed matter.

PCT Rule 49.5(a) states in part:

"For the purposes of article 22, the translation of the international application shall contain the description, the claims, any text matter of the drawings, and the abstract."

PCT Rule 49.5(d) states:

"If any drawing contains text matter, the translation of that text matter shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter of in the form of the drawing executed anew."

Thus, it is a requirement of the Patent Cooperation Treaty that any text matter in the drawings be translated on the drawings. A review of the drawings reveals that there is text matter in Figures 3, 4 and 6. Since applicants did not follow prescribed rules for translation, the translation is unacceptable.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED**.

Counsel's Deposit Account No. 13-2725 will be charged $130 for the surcharge for providing the declaration later than 30 months from the priority date.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, in accordance with this decision,

including issuance of a Notification of Missing Requirements indicating that an acceptable translation 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.

Craig Thompson
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

26 OCT 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

Oppendahl and Larson, LLP
P.O. Box 5068
Dillon, CO 80435-5068

In re Application of
HOUGHTON et al.
Application No.: 10/505,682
PCT No.: PCT/GB03/00750
Int. Filing Date: 21 February 2003
Priority Date: 28 February 2002
Attorney Docket No.: URQU.P-010
For: STERILITY TESTING APPARATUS

DECISION

This is a decision on applicants' "Request for Correct 371(c) Date" filed in the United States Patent and Trademark Office (USPTO) on 18 July 2005, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 24 August 2004, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, and a preliminary amendment.

On 24 March 2005, applicants filed an executed declaration and power of attorney.

On 31 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 that the declaration in compliance with 37 CFR 1.497 was required.

On 10 May 2005, applicant filed a "Response to Notification of Missing Requirements" which included a copy of the declaration filed 24 March 2005 and a statement that the oath/declaration had been previously submitted to the United States Patent and Trademark Office via United States Postal Service "Express Mail" on 24 March 2005.

On 26 May 2005, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 10 May 2005. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 10 May 2005.

On 18 July 2005, applicants filed the present request to correct the filing date to 24 March 2005. The request to correct the filing date included an executed declaration and a copy of the Customer Receipt of the United States Postal Service "Express Mail" mailing label EV600680211US dated 24 March 2005.

DISCUSSION

On 18 July 2005, applicants filed a petition requesting that the filing date on the filing receipt be corrected to indicate the correct date on which the declaration was filed and on which the requirements under 35 U.S.C. 371 (c) were completed; i.e., 24 March 2005.

A copy of the Customer Copy of the "Express Mail" label No.#EV600680211US filed with the petition bears a "Date In" date of 24 March 2005, and further information obtained from the United States Postal Service (USPS) Express Mail database shows that "EV600680211US" was accepted by the USPS on 24 March 2005.. The same "Express Mail" label number was placed on the "Transmittal of Declaration under 37 CFR 1.10" and declaration located in the application file, but was date stamped as received in the PTO on 10 May 2005.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that the executed declaration was filed on 24 March 2005. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 24 March 2005, and therefore the indication of a filing date of 10 May 2005, on the Notification of Acceptance of Application under 35 U.S.C. 371 and the official filing receipt are incorrect.

CONCLUSION

Applicants' request under 37 CFR 1.181 for issuance of a corrected filing receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 26 May 2005 is hereby **VACATED**.

The application has an international filing date of 21 February 2003 under 35 U.S.C. 363 and a date of **24 March 2005** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **24 March 2005** U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **24 March 2005**.

Anthony Smith Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MAILED

MAR 26 2010

OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Patent No. 7,612,077	: DECISION ON REQUEST
John Peter Gilday	: FOR
Issue Date: November 3, 2009	: RECONSIDERATION OF
Application No. 10/505,690	: PATENT TERM ADJUSTMENT
Filed: May 23, 2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
056291-5176	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 17, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-nine (1199) 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 ninety-nine (1199) 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 ninety-nine (1199)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,612,077 B2

DATED : **November 3, 2009** **DRAFT**

INVENTOR(S) : Gilday

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 809 days.

Delete the phrase "by 809 days" and insert – by 1199 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

MAR 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Tadahisa Iwata et al	:	
Application No. 10/505,731	:	DECISION GRANTING PETITION
Filed: August 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1261-0152PUS1	:	

This is a decision on the petition, filed March 17, 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 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\505731

---

[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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAY P. SBROLLINI
GORDON & JACOBSON
SUITE 407
60 LONG RIDGE ROAD
STAMFORD, CT 06902

COPY MAILED

AUG 14 2009

OFFICE OF PETITIONS

In re Application of	
Sundaram Ravikumar et al	
Application No. 10/505,735	DECISION ON PETITION
Filed: February 4, 2005	TO WITHDRAW
Attorney Docket No. RAV-004 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 June 25, 2009.

The request is **APPROVED**.

The request was signed by David P. Gordon on behalf of the practitioners of record associated with Customer Number 36822.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Sundaram Ravikumar at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Sundaram Ravikumar
265 Hardscrabble Road
Briarcliff Manor, NY 10510

01 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John Wiley Horton
Pennington, Moore, Wilkinson,
Bell & Dunbar, P.A.
215 S. Monroe Street
Tallahassee, FL 32301

In re Application of	:	
Shelton	:	
Application No.: 10/505,736	:	
PCT No.: PCT/GB03/00302	:	
Int. Filing Date: 23 January 2003	:	DECISION
Priority Date: 23 January 2002	:	
Attorney Docket No.: N/A	:	
For: Electromagnetic Inclinometer	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 24 August 2004 .

BACKGROUND

This international application was filed on 23 January 2003, claimed an earlier priority date of 23 January 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 31 July 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 23 July 2004. This international application had become abandoned with respect to the national stage in the U.S. for failure to timely file the full required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply is the full required basic national fee. Applicants paid a "filing fee" in the amount of $385.00, but the applicable small entity basic national fee (for filing with an EP or JP International Search Report) was $ 460 , or $920.00 for a large entity. As applicants have not paid either of these amounts in full, the required reply is not considered to have been filed.

Regarding requirement (2), the petition was accompanied by the petition fee.

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 **DISMISSED**, without prejudice.

Please direct any 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.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J WILEY HORTON
PENNINGTON MOORE WILKINSON BELL & DUNBAR
PO BOX 10095
TALLAHASSEE, FL 32302-2095

COPY MAILED

JUL 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Shelton, Christopher	:	
Application No. 10/505,736	:	ON PETITION
Filed: August 24, 2004	:	
Title: ELECTROMAGNETIC INCLINOMETER	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 18, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 05/28/2010

Applicant	: Koichiro Shoji	: DECISION ON REQUEST FOR
Patent Number	: 7624135	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/505,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1428** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

22 JAN 2007

William E. Beaumont
Merchant & Gould
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of NUSSAUME, et al. Application No.: 10/505,757 PCT No.: PCT/US03/00673 Int. Filing Date: 03 March 2003 Priority Date: 01 March 2002 Atty. Docket No.: 1169-29 For: USE OF EARLY LIGHT-INDUCIBLE PROTEINS: (ELIP) TO INCREASE PLANT RESISTANCE TO PHOTOCHEMICAL OXIDANT STRESS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 December 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a diskette containing a computer readable form of the Sequence Listing free of any defects. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been previously satisfied.

The application has an international filing date of 03 March 2003 under 35 U.S.C. 363 and will be given a date of **02 February 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENYON & KENYON, LLP
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

APR 2 2 2009

OFFICE OF PETITIONS

In re Application of
Anna Larsson Kron, et. al.
Application No. 10/505,775
Filed: September 8, 2005
Attorney Docket No. 13877/27001

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed, March 18, 2009, to change the name of inventor "Anna Kron" to – Anna Larsson Kron --.

As authorized by the Amendment Transmittal and Petition for Extension of Time filed on March 18, 2009, the required petition fee of $400 has been charged to petitioner's deposit account. Therefore, the petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1791 for further processing.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/505,775	09/08/2005	1791	1130	13877/27001	1	1

CONFIRMATION NO. 3524

CORRECTED FILING RECEIPT

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

OC000000035605435

Date Mailed: 04/22/2009

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)

Anna Larsson Kron, Sundsvall, SWEDEN;
Orjan Soderberg, Njurunda, SWEDEN;
Ingela Eriksson, Sundsvall, SWEDEN;

Assignment For Published Patent Application

AKZO NOBEL N.V., ARNHEM, NETHERLANDS

Power of Attorney: The patent practitioners associated with Customer Number 26646

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/SE04/00835 06/01/2004
which claims benefit of 60/482,497 06/26/2003

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 03445085.8 06/26/2003

If Required, Foreign Filing License Granted: 10/02/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/505,775**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Microspheres

Preliminary Class

162

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

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Rhett L. Weiss	: DECISION ON REQUEST FOR
Patent Number	: 7640196	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,776	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 05/17/2010

Applicant : Rhett L. Weiss
Patent Number : 7640196
Issue Date : 12/29/2009
Application No : 10/505,776
Filed : 04/01/2005

: 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 **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,784	08/26/2004	Mitsuhiro Minami	0033-0949PUS1	8899

2292 7590 07/16/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
DILLON JR, JOSEPH A

ART UNIT	PAPER NUMBER
3651	

NOTIFICATION DATE	DELIVERY MODE
07/16/2008	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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
MINAMI, MITSUHIRO et al.	:	
Application No.: 10/505784	:	DECISION ON
Filing or 371(c) Date: 08/26/2004	:	PETITION
Attorney Docket Number: 0033-0949PUS1	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed July 11, 2008. The petition is properly treated under 37 CFR 1.181(a).

The petition is **DISMISSED**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed October 27, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became effectively abandoned on January 29, 2007.

Conclusion

The evidence has been considered. Applicant has failed to demonstrate that withdrawing the holding of abandonment is appropriate. Accordingly, the application is properly held abandoned.

Alternative venue

Applicant may alternatively file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not

appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 x 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 27 2009

OFFICE OF
DATA MANAGEMENT

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	**DECISION ON PETITION**
Mitsuhiro Minami	:	
Application No. 10/505,784	:	
Filed: 08/26/2004	:	
Attorney Docket No. 0033-0949PUS1	:	

This is a decision on the Renewed Petition to Withdraw Holding of Abandonment as Being Unintentional under 37 CFR 1.137(b) which is being treated as a Request to reconsider the Petition Decision of July 15, 2008 received in the United States Patent and Trademark Office (USPTO) on August 8, 2008.

The previous Decision has been reconsidered. The Petition filed on July 11, 2008 is **Granted**.

The application was held abandoned for failure to timely file corrected drawings as required by and within the three-month period set in, the Notice of Allowability mailed June 26, 2006. Corrected drawings were not submitted within the time period for response. Therefore, the application was **properly** held abandoned and the Notice of Abandonment was mailed on November 29, 2006.

Petitioner states that U.S. Patent and Trademark Office mistakenly required corrected drawings on the Notice of Allowability and supports this assertion by further stating that the attachment to the Notice of Allowability specifically stated that the drawings filed on May 24, 2006 were acceptable. The Notice of Allowability required changes that were included in the Office Action mailed on February 28, 2006. The drawings filed on May 24, 2006 appear to correct these problems. After consultation with the Examiner, the Office agrees that the drawing requirement was made in error.

The drawings filed on May 24, 2006 are acceptable and no further corrections are required.

As this was handled as a Request to reconsider the previous petition decision the no fees have been charged.

Applicant also requests an adjustment to Patent Term. The final Patent Term Calculation will be determined upon assignment of the Issue Date. The calculation will be included

on the Issue Notification letter and the Patent Grant. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of 37 CFR 1.705 paragraphs (b)(1) and (b)(2)

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

Kimberly Terrell, Manager
Office of Data Management
Patent Publication Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RATNERPRESTIA
P.O. BOX 1596
WILMINGTON DE 19899

COPY MAILED
MAR 12 2010

In re Application of	:	
Keiti Tutikawa, et al.	:	
Application No. 10/505,792	:	DECISION GRANTING PETITION
Filed: August 25, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SIP-103US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 10, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1795for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCK
P O BOX 2000
RAHWAY, NJ 07065-0907

Mail Date: 04/21/2010

Applicant	: Christopher I. Bayly	: DECISION ON REQUEST FOR
Patent Number	: 7375134	: RECALCULATION of PATENT
Issue Date	: 05/20/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,796	: OF WYETH
Filed	: 08/25/2004	:
		:

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.

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

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Takehiko Hihara	: DECISION ON REQUEST FOR
Patent Number	: 7638019	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **877** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 3 1 2007

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:	
TOLAN, Jeffrey S. et al.	:	
Application No. 10/505,815	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. **10798/10**	:	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 01, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Brinks Hofer Gilson & Lione has been revoked by the assignee of the patent application on March 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FITZPATRICK CELLA HARPER & SCINTO**
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/505,815	10/13/2004	Jeffrey S. Tolan	10798/10

CONFIRMATION NO. 1753

OC000000024103036

757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Date Mailed: 05/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2007.

- 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).

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/505,815	10/13/2004	Jeffrey S. Tolan	10798/10

CONFIRMATION NO. 1753

OC000000024103037

5514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Date Mailed: 05/29/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2007.

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.

Michelle R. Souser

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091119

DATE : November 19, 2009

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction on Patent No.: 7,368,036

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: /Steven P. Griffin/ **Art Unit** 1791

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NXP, B.V.
NXP INTELLECTUAL
PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

COPY MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Application of :
Van Rens, et al. :
Application No. 10/505,836 : DECISION
Filed/Deposited: 25 August, 2004 :
Attorney Docket No. NL02 0166 US :

This is a decision on the petition filed on 11 September, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." *In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the Notice of Non-Compliant Appeal Brief mailed on 19 September, 2008, with reply due absent extension of time on or before 19 October, 2008.

The application went abandoned by operation of law after midnight 19 October, 2008.

The Office mailed the Notice of Abandonment on 10 September, 2009.

On 11 September, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181—and averred that a reply in the form of an amended brief was submitted *via* FAX on 19 September, 2009, over a certificate of transmission, however, Petitioner has failed to make the showing in compliance with the guidance in the Commentary at MPEP 711.03(c)(I)—set forth below—in that there was no Office FAX Receipt Acknowledgement (and apparently no statement by the person executing the certificate of transmission).

It is noted that a failure to promptly make the required showing or to seek revival of the application pursuant to the provisions of under 37 C.F.R. §1.137(b) may be considered *indicia* of delay that is other than unintentional.

Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

---

[1] *See*: MPEP §711.03(c) (I)(B).

[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).

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.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And 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.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

---

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, 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 a terminal disclaimer and fee where appropriate.

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 regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

12 JUL 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JACOBSON HOLMAN PLLC
400Seventh Street N.W.
Suite 600
Washington, DC 20004

In re Application of MCCOLSKEY, Edward *et al* U.S. Application No.: 10/505,885 PCT No.: PCT/IE03/00039 Int. Filing Date: 10 March 2003 Priority Date: 08 March 2002 Attorney Docket No.: P70065US0 For: WET TISSUES DISPENSER	: : : : : : : :	**DECISION ON PAPERS FILED UNDER 37 CFR 1.42**

This is a decision on the declaration filed on 24 May 2005 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 24 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 that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond.

On 24 May 2005, applicants submitted a declaration signed by one of the joint inventors and the legal representative of a deceased inventor.

DISCUSSION

The declaration filed 24 May 2005 was signed by co-inventor, Edward McCloskey and Elizabeth Jones as legal representative for co-inventor, Oliver Hood, who is deceased.

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 citizenship, residence and address of all the joint inventors (including the deceased inventor) are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). In addition, the citizenship, residence and address of the legal

representative are recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

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 10 March 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 May 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 27 2006

OFFICE OF PETITIONS

ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM MA 02451-1215

In re Application of
Michael Barry Gravestock et al. :
Application No. 10/505,902 : ON PETITION
Filed: August 26, 2004 :
Attorney Docket No: 100640-1P US :

This is a decision on the petition filed March 6, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on November 4, 2005, for failure to file a timely response to the non-Final Office Action mailed August 3, 2005, which set a three (3) month statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed August 3, 2005 would have been filed, had it been received. To show that the Notice mailed August 3, 2005 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed August 3, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 1626 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Kenji Okajima	: DECISION ON REQUEST FOR
Patent Number	: 7634140	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,903	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **941** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

S Peter Konzel, Esq.
Simpson & Simpson, PPLC
5555 Main Street
Williamsville, NY 14221-5406

COPY MAILED

OCT 2 4 2007

OFFICE OF PETITIONS

In re Application of Zoppas :
Application No. 10/505,908 : Decision on Petition
Filing Date: August 26, 2004 :
Attorney Docket No. NTAP:106US :

This is a decision on the petition under 37 CFR 1.181, filed September 27, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice of Non-Compliant Amendment on June 21, 2007. The Notice set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, a reply was due on or before Monday, July 23, 2007.

The Office did not receive a reply by July 23, 2007.

Petitioner contends the application is not abandoned because the Notice of Non-Compliant Amendment was never received. The evidence supplied by petitioner is sufficient to show non-receipt of the Notice of Non-Compliant Amendment. Therefore, the application is not abandoned.

Petitioner requests the Office re-mail the Notice of Non-Compliant Amendment. However, petitioner submitted a reply to the Notice with the instant petition. Therefore, the Office will not remail the Notice. However, if the new Amendment fails to comply with the rules, the Office will mail a new Notice of Non-Compliant Amendment.

Technology Center Art Unit 1722 will be informed of the instant decision and the amendment filed September 27, 2007, will be considered in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

COPY MAILED

SEP 06 2006

OFFICE OF PETITIONS

In re Application of
Ronald David Conry
Application No. 10/505,912
Filed: August 26, 2004
Attorney Docket No. 0299568-0418-PCT-US

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because 37 CFR 10.40 states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" Additionally, 37 CFR 10.40 states, "i[f] 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: [. . .]" Reasons a practitioner can permissively withdraw follow the later quotation.

Since the request for withdrawal as attorney or agent submitted on April 27, 2005 provides no reasons for withdrawal, 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 for Withdrawal as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Tomohisa Kato	: DECISION ON REQUEST FOR
Patent Number	: 7649053	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,918	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Joseph S Tripoli
Thomson Licensing Inc
Patent Operations
Two Independence Way
Princeton NJ 08543-5312

COPY MAILED

FEB 1 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Doyen et al.	:	
Application No.: 10/505925	:	ON PETITION
Filing or 371(c) Date: 08/27/2004	:	
Attorney Docket Number:	:	
PF020019	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed January 6, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed March 21, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on June 22, 2008. A Notice of Abandonment was mailed November 13, 2008.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2629 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

16 AUG 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

41754
THE JANSSON FIRM
9501 N. Capital of TX Hwy #202
Austin, TX 78759

In re Application of
FAMBON, Olivier *et al*
U.S. Application No.: 10/505,935
PCT No.: PCT/IB03/00763
Int. Filing Date: 26 February 2003
Priority Date: 28 February 2002
Attorney Docket No.: 71.03939 US
For: ITERATIVE SERIALISATION PROCEDURE FOR STRUCTURED SOFTWARE OBJECTS

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 08 August 2007 is hereby **GRANTED** as follows:

The basic national fee was submitted with the petition under 37 CFR 1.137(a) filed 25 July 2007. The $1,500.00 petition fee to revive fee under 37 CFR 1.137(b) has been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

23 DEC 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

Pehr Jansson
7628 Parkview Circle
Austin, TX 78731

In re Application of
FAMBON, Olivier *et al*
U.S. Application No.: 10/505,935
PCT No.: PCT/IB03/00763
Int. Filing Date: 26 February 2003
Priority Date: 28 February 2002
Attorney Docket No.: 71.03939 US
For: ITERATIVE SERIALISATION PROCEDURE FOR STRUCTURED SOFTWARE OBJECTS

DECISION ON PETITION UNDER 37 CFR 1.137(a)

This is a decision on applicants' "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" ("Pet.") filed with the United States Designated/Elected Office (DO/EO/US) on 25 July 2005.

BACKGROUND

On 27 August 2004, applicants filed papers to enter the national stage of PCT/IB03/00863 which was accompanied *by, inter alia*, a transmittal letter authorizing the basic national fee to be charged to Deposit Account No. 50-2229.

On 18 April 2005, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) in the above-captioned application for failing to provide the full U.S. Basic National Fee by 30 months pursuant to 37 CFR 1.495(b)(2). The Deposit Account listed on the transmittal letter was not active.

On 25 July 2005, applicants filed a petition to revive for unavoidable delay pursuant to 37 CFR 1.137(a).

DISCUSSION

In all national stage applications, applicants must provide the full basic fee by 30 months from the earliest claimed priority date pursuant to 37 CFR 1.495(b)(2). Here, the basic national fee was due by 28 August 2004. Applicants submitted papers to enter the national stage on 27 August 2004; however, the incorrect Deposit Account information was provided on the transmittal letter. As such, the Office could not charge the required fees using the information provided. *See* MPEP § 509.01.

Accordingly, the above-captioned application was properly abandoned.

Applicants request that the application be revived using the "unavoidable" standard pursuant to 37 CFR 1.137(a). A petition to revive an abandoned application pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply; (2) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c); and (4) the petition fee.

The $500.00 petition fee and appropriate national stage fees have been charged to Deposit Account No. 50-2299 as authorized. A terminal disclaimer is not required.

This Error Meets the Unavoidable Standard

Petitioners claim that the error causing the abandonment in this application was unavoidable. Petitioners argue that the wrong Deposit Account number was listed on the transmittal letter due to a typographical error "made by a trained, experienced, and trusted assistant of the undersigned. Accordingly, it was reasonable for the undersigned to rely on that assistant to have properly filed out the deposit account number on the 1390 form. The discrepancy . . . was only one digit; thus, It would have been difficult to spot the typographical error." Pet. at ¶ 7.

This argument has been considered and dismissed.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable. *See* MPEP § 711.03(c). In this case, ordinary diligence would have prevented this application from being abandoned. The transmittal letter (Form PTO 1390) is only two pages long and is not very detailed. A reasonably prudent practitioner would have checked the Deposit Account information on the two-page transmittal letter (Form PTO-1390) when it was signed. Paying the required basic national fee on a timely basis is one of the few requirements for entering the national stage in the United States. *See* 35 U.S.C. 371(c)(1).

It is also noted that there is no authority to correct the Deposit Account information once the 30-month period has expired.

CONCLUSION

For the reason discussed above, applicants' petition for revival pursuant to 37 CFR 1.137(a) is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED**.

The dismissal of a petition under 37 CFR 1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. Any renewed petition under 37 CFR 1.137(a), or a petition to revive under 37 CFR 1.137(b) must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 OCT 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OTTO JORGEN DRAEBEL
UTTERSLEVGAARD 1
APT. 3
2400 COPENHAGEN NV DENMARK

In re Application of LAYNE et al. Application No.: 10/505,943 PCT No.: PCT/US03/05666 Int. Filing: 26 February 2003 Priority Date: 26 February 2002 Attorney Docket No.: 924-048 For: RODLESS CONVEYOR BELT OR CHAIN	DECISION ON PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Draebel:

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

King & Schickli
247 North Broadway
Lexington KY 40507

Images (Repub.)

(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

CORRECTED VERSION

(11) WO 03/072464 **(13)** A1

(21) PCT/*US03/05666*

(22) 26 February 2003 (26.02.2003)

(25) English **(26)** English

(30) 60/359,582	26 February 2002 (26.02.2002)	US
(30) 60/423,067	01 November 2002 (01.11.2002)	US
(30) 60/435,221	18 December 2002 (18.12.2002)	US

(43) 04 September 2003 (04.09.2003)

(51)[7] B65G 17/06

(54) RODLESS CONVEYOR BELT OR CHAIN

(71) SPAN TECH LLC [US/US]; 1115 Cleveland Avenue, P.O. Box 369, Glasgow, KY 42141 (US).

(72) LAYNE, James, L. [US/US]; 241 Fisher Lane, Bowling Green, KY 42103
(75) (US). **DRAEBEL, Otto, Jorgen** [US/US]; Utterslevgaad 1, Apt. 3, Copenhagen, NV 2400 (US). **MCDANIEL, Michael, D.** [US/US]; 857 Tick Ridge Road, Glasgow, KY 42141 (US). **JOHNSON, Mark, T.** [US/US]; 106 Jo Ann Drive, Glasgow, KY 42141 (US).

(74) SCHICKLI, Warren, D., et al; King and Schickli, PLLC, 247 North Broadway, Lexington, KY 40507 (US).

(81) AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, OM, PH, PL, PT, RO, RU, SD, SE, SG, SK, SL, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

(84) ARIPO patent (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, HU, IE, IT, LU, MC, NL, PT, SE, SI, SK, TR), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG)

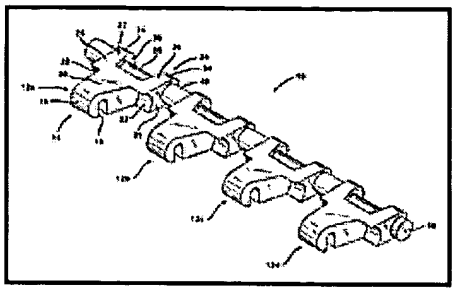
For information on time limits for entry into the national phase please click here

Published

-- *with international search report*

(48) 18 December 2003 (18.12.2003)

(15) see PCT Gazette No. 512003 of 18 December 2003, Section II: under (72, 75) replace "MCDANIEL, Maichel, D." by "MCDANIEL, Michael, D."



(57) A modular link (10) or link section for use in forming a riddles conveyor belt or a section thereof is provided. In one embodiment, the link section is unitary and includes a plurality of laterally-repeating link-shaped portions (16), each including an apex portion (14) and a pair of leg portions (22, 24). Each apex portion includes a receiver (18) for receiving an integral first connector (36) extending between the leg portions of a next-adjacent link or link section, preferably in snap-fit engagement, such that relative pivoting movement is established. A second integral connector (40) may be provided between the leg portion of each adjacent apex portion to create an engagement surface for a tooth of a drive or idler sprocket (s). The underside surface of each link section may also be specially contoured or curved to facilitate smooth passage over a guide structure (B), such as a small diameter, cylindrical nosebar or the like.

Français

1 of 2

18 OCT 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

King & Schickli
247 North Broadway
Lexington KY 40507

In re Application of LAYNE et al. Application No.: 10/505,943 PCT No.: PCT/US03/05666 Int. Filing: 26 February 2003 Priority Date: 26 February 2002 Attorney Docket No.: 924-048 For: RODLESS CONVEYOR BELT OR CHAIN	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 26 August 2004.

BACKGROUND

On 26 August 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 1.47(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, Otto Jorgen Draebel, on the grounds that the nonsigning inventors refuses to execute 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).

Applicant satisfied Items (1), (3) and (4) above.

With respect to item (2), Applicant filed the statement of facts under 37 CFR 1.47(a) of Michael D. McDaniel. Mr. McDaniel states that on 26 July 2004, he sent a copy of the application and Declaration to Mr. Draebel at his last known address for his signature. Mr. McDaniel further states that on 10 August 2004, he e-mailed a message to Mr. Draebel advising him that the documents were en route and requested that Mr. Draebel sign and return the Declaration. Mr. McDaniel further states that Mr. Draebel informed him during a telephone conversation on 23 August 2004 that he would not sign and return the Declaration. Mr. McDaniel's statement satisfies Item (2) above.

Application No.: 10/505,943

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 26 August 2004. The application has an international filing date of 26 February 2003 under 35 U.S.C. 363, and a date of 26 August 2004 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the 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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL QC H3A CA CANADA

COPY MAILED

MAY 27 2009

OFFICE OF PETITIONS

In re Application of :
Alain Moreau :
Application No. 10/505,951 :
Filed: August 27, 2004 :
Attorney Docket No. 765/14033.2 :

ON PETITION

This is a decision on the petition, filed May 7, 2009 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 17, 2008, which sat a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 18, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

Office record does not show a reply to the March 17, 2008 non-final Office action was received. A courtesy copy of the March 17, 2008 non-final Office action accompanies this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $555 extension of time submitted with the petition on May 7,

2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: A courtesy copy of the March 17, 2008 non-final Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,951	08/27/2004	Alain Moreau	765/14033.2	5365

25545 7590 03/17/2008
GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL, QC H3A 3H3
CANADA

EXAMINER
MARTIN, PAUL C

ART UNIT	PAPER NUMBER
1657	

NOTIFICATION DATE	DELIVERY MODE
03/17/2008	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):

afovero@ggd.com
Private.PAIR@ggd.com

Office Action Summary	Application No.	Applicant(s)	
	10/505,951	MOREAU, ALAIN	
	Examiner	Art Unit	
	PAUL C. MARTIN	1657	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-9,11-13 and 27-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-9,11-13 and 27-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 August 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claims 1, 4-9, 11-13 and 27-33 are pending in this application and were examined on their merits.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission including the Miller Declaration, the Bouvier Declaration, and the Moreau Declaration filed on 01/08/08 has been considered and entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 4-9, 27-29 and 30-33 remain rejected under 35 U.S.C. 112, 1st paragraph for not being enabled for the full scope of the claimed invention for reasons of record set forth in the Action mailed 09/11/06.

Response to Amendment

The Declaration under 37 CFR 1.132 filed 01/08/08 is insufficient to overcome the rejection of claims 1, 4-9, 27-29 and 30-33 based upon 35 U.S.C. 112, 1st paragraph for not being enabled for the full scope of the claimed invention as set forth in the prior Office action because:

The data provided in the Declaration by Dr. Moreau is not found to be persuasive as far as indicating that the invention is fully enabled for the full scope of the claimed invention, beyond the detection of the presence or absence of a melatonin signaling pathway impairment of the neuromuscular system in lymphocytes, monocytes, osteoclasts, osteoblasts and myoblasts in pre-diagnosed AIS patients.

The experimental data presented in the Declaration are drawn to 24 asymptomatic children with at least one parent affected by AIS and 21 healthy children without family antecedents as controls. Of the experimental subjects 15/24 or 62.5% displayed a melatonin signaling impairment while 4/21 or 19% of the controls displayed a melatonin signaling defect. The Figure provided is drawn to an analysis of melatonin signaling from asymptomatic children with one AIS affected parent as compared to the control subjects. More particularly, it purports to show a comparison of median percentage of cAMP measured in the presence of a physiological dose of melatonin and forskolin between control and asymptomatic AIS patients wherein the asymptomatic groups display much larger cAMP percentages as compared to the controls. The data is not found to be persuasive for the following reasons, instant claim 1 states the method is for diagnosing an increased risk for developing AIS in a human comprising detecting the presence or absence of *at least one impairment* in melatonin-signaling pathway in at least one of the human's cells. According to the claim there exists more than one melatonin signaling pathway impairment while the data presented in the Declaration does not specify which melatonin signaling impairment is present in the asymptomatic predisposed subjects as compared to the controls and therefore it cannot be determined if the controls actually measure a baseline. The use of the generic term melatonin-signaling pathway impairment renders the data indefinite as it cannot be determined which impairment is being detected and/or whether the same impairment is being measured in the controls.

Further, 19% of the controls exhibited a melatonin signaling pathway impairment, a large number considering that the purpose of the controls is to provide a low-level baseline for comparison to the experimental group. Thus, either there is a significant percentage of melatonin signaling pathways impairments in the general asymptomatic population at large or there are significant levels of false positive melatonin signaling pathway impairments. Either way, the efficacy of the method in diagnosing an increased risk of developing AIS based upon impairment in the melatonin signaling pathway cannot be readily supported based upon the provided data. The data also does not indicate the time frame under which the experimental data was gathered, merely the initial ages of the asymptomatic experimental subjects. As such, the data could have been measured once initially and never measured again. This absence does not advance the evidentiary value of the provided data as it cannot be determined when the data was obtained and over what period of time it took for a diagnosis of AIS to be made in either the experimental or control subjects. *In fact, no eventual diagnosis of AIS is provided in either the control or the experimental group*, rendering it impossible to determine if *any correlation* exists between the measured melatonin signaling pathway impairment and development of AIS. Further, no relationship between the measured cAMP values provided in Figure 1to the eventual diagnosis of AIS can be determined. The data cannot be interpreted in a vacuum, some relationship beyond 15/24 subjects exhibiting an unspecified melatonin signaling pathway impairment and increased cAMP levels over an unspecified time period and a final diagnosis of AIS must be provided for the invention to be used by one of skill in the art.

Response to Arguments

Applicant's arguments filed 01/08/08 have been fully considered but they are not persuasive.

The Applicant argues that the data presented in the Declaration of Dr. Moreau indicates that 15/24 (62.5%) of at risk children displayed an unspecified melatonin signaling pathway impairment as compared to 4/21 (19%) showing another unspecified melatonin signaling pathway impairment and that the melatonin pathway impairment was detected in a much larger percentage of at risk children than the controls and that therefore the asymptomatic children that display the melatonin signaling pathway impairment are more likely to develop AIS than those that do not present the impairment (Remarks, Pg. 6, Lines 11-27).

This is not found to be persuasive for the following reasons. As discussed above, the claims indicate that there may be more than one melatonin signaling pathway impairment and it is unclear which one the data characterizes. The allegation that the asymptomatic children that display the melatonin signaling pathway impairment are more likely to develop AIS than those that do not present the impairment cannot be substantiated as no eventual diagnosis of AIS in either the experimental or control groups is provided. The data supports however, the detection of a melatonin signaling pathway impairment in cells.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4-6, 8, 27, 29, 31 and 33 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Wang *et al.* (1998) in view of Luvone *et al.* (1994) for reasons of record set forth in the prior Actions.

Claims 1, 4-8, 11-13, 27-29, 31 and 33 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Wang *et al.* (1998) in view of Luvone *et al.* (1994) and Garcia-Perganeda *et al.* (1997) for reasons of record set forth in the prior Actions.

Claims 1, 4-6, 8, 9, 27, 29, 31 and 33 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over Wang *et al.* (1998) in view of Luvone *et al.* (1994) as applied to Claims 1, 4-6, 8, 27, 29, 31 and 33, and further in view of Drazen *et al.* (2001).

The teachings of Wang *et al.* and Luvone *et al.* were discussed in the Prior Actions.

Neither Wang *et al.* nor Luvone *et al.* teach a method wherein a melatonin signaling pathway impairment is detected by an absence of proliferation of/in cells in the presence of a known melatonin-signaling pathway agonist.

Drazen *et al.* teaches a method wherein the disruption of the melatonin signaling pathway is detected by the absence of proliferation in cells when in the presence of melatonin (Pg. R1478, Column 2, Lines 22-31 and Pg. R1479, Column 1, Lines 1-8 and Fig.3)

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to combine the teachings of Wang *et al.* and Luvone *et al.* with those of Drazen *et al.* because while Wang *et al.* suggests the broad effects of melatonin in the development of AIS on a macro scale, and Luvone *et al.* teaches that a melatonin signaling pathway impairment can be detected in impaired vs. control cells, Drazen *et al.* provides evidence that melatonin plays a role in the proliferation of certain cell types and therefore, would lead the ordinary artisan to investigate the proliferation of cells which might play a role in the development of AIS.

The ordinary artisan would have had a reasonable expectation of success based on the success of Drazen *et al.* in demonstrating the effects of melatonin and its disruption and the success of Wang *et al.* as combined with Luvone *et al.* in demonstrating the effects of melatonin on the development of AIS and the cellular detection thereof.

Response to Amendment

The Declarations under 37 CFR 1.132 filed 01/08/08 are insufficient to overcome the rejection of claims 1, 4-9, 11-13, 27-29, 31 and 33 based upon 35 U.S.C. § 103(a) as set forth in the prior Office actions because:

The Declaration by Dr. Bouvier indicates that the term "impairment in melatonin signaling pathway" in general refers to a cell's response to a given concentration of melatonin as compared to the response of a normal cell.

The Declaration by Dr. Miller merely states that; 1) Wang *et al.* reports that pinealectomized chickens have a low serum concentration of melatonin and that 52% of these chickens develop scoliosis, 2) that Luvone *et al.* does not concern scoliosis and does not teach or suggest any relationship between scoliosis and impaired melatonin signal transduction pathway, 3) that Garcia-Perganeda *et al.* does not concern scoliosis and does not teach or suggest any relationship between scoliosis and impaired melatonin signal transduction pathway, 4) that Drazen *et al.* does not concern scoliosis and does not teach or suggest any relationship between scoliosis and impaired melatonin signal transduction pathway, and that therefore it could not reasonably be predicted that AIS patients are characterized by a melatonin signaling impairment and that the risk of developing this disease could be assessed by detecting the presence or absence of this impairment based upon the teachings of Wang *et al.* either alone or in combination with the other references.

Response to Arguments

Applicant's arguments filed 01/08/08 regarding the Declaration by Dr. Bouvier above have been fully considered but they are not persuasive.

The Applicant argues that as the term "impairment in melatonin signaling pathway" refers to a cell's response to a given concentration of melatonin as compared to the response of a normal cell, a melatonin signaling impairment does not encompass a reduced signaling caused by low melatonin level as disclosed by Wang *et al.* , that a melatonin signaling receptor antagonist does not initiate a melatonin signaling impairment, and that therefore the presence of low blood melatonin in pinealectomized chickens does not provide any indication as to whether melatonin signaling is impaired in the bird's cells or whether the cells of AIS patients present a melatonin signaling impairment or not (Remarks, Pg. 8, Lines 1-17).

This is not found to be persuasive for the following reasons, as discussed above, the claims are not limited to any one melatonin signaling pathway impairment and the Declaration does not address what particular impairment is being described, its nature or how it is being measured, merely that the response of "impaired" cells to a concentration of melatonin differs from that of "normal" or presumably unimpaired cells. Further, the arguments in view of the Declaration are only directed to the teachings of the Wang *et al.* reference when the rejection was based upon the combination of multiple references.

For example, the Luvone *et al.* reference teaches a melatonin signaling pathway impairment meeting the limitations of the general definition provided by the Declaration, i.e., the response (increased cAMP accumulation) of an "impaired" or N-acetyltryptamine treated cells to concentrations of melatonin as compared to "normal" or un-N-acetyltryptamine treated cells stimulated by the adenyl cyclase activator forskolin (Pg. 121, Fig. 5). Therefore, while Wang *et al.* teach that pinealectomized chickens were producing little to no melatonin (and developing scoliosis in 52% of the subjects), one of ordinary skill in the art at the time of the invention would recognize from the teachings of Luvone *et al.* that a melatonin signaling pathway impairment can be detected in cells in response to melatonin by measuring cAMP accumulation in response to forskolin, the combination of the two references would result in the claimed invention. I.e., that the detection of a melatonin signaling pathway impairment in impaired cells results in increased cAMP accumulation in low or no concentrations of melatonin as compared to unimpaired cells and that in animals producing little to no melatonin an increased risk of developing AIS is seen.

Applicant's arguments filed 01/08/08 regarding the Declaration by Dr. Miller have been fully considered but they are not persuasive.

The Applicant argues that in the opinion of Dr. Miller it was not predictable in view of the Wang *et al.* reference that AIS patients are characterized by a melatonin signaling impairment and that the risk of developing this disease could be assessed by detecting the presence or absence of this impairment, that Luvone *et al.* does not disclose or suggest that AIS patients cells display a melatonin signaling impairment or that the risk of developing this disease could be assessed by the detection of this impairment, that Garcia-Perganeda *et al.* does not disclose or suggest that AIS patients cells display a melatonin signaling impairment or that the risk of developing this disease could be assessed by the detection of this impairment, and that Drazen *et al.* does not disclose or suggest that AIS patients cells display a melatonin signaling impairment or that the risk of developing this disease could be assessed by the detection of this impairment (Remarks, Pg. 9, Lines 8-26 and Pg. 10, Lines 1-22).

This is not found to be persuasive for the following reasons, in response to applicant's arguments and in view of the Declaration by Dr. Miller against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The mere statement that because the references individually do not specifically address scoliosis and do not disclose or suggest that AIS patients cells display a melatonin signaling impairment or that the risk of developing this disease could be assessed by the detection of this impairment is not sufficient evidence that the combination of the references would not render obvious the invention as a whole.

No Claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL C. MARTIN whose telephone number is (571)272-3348. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Martin
Examiner
Art Unit 1657

02/27/08

/Jon P Weber/

Supervisory Patent Examiner, Art Unit 1657

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL QC H3A 3H3 CA CANADA

COPY MAILED

OCT 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Alain Moreau	:	
Application No. 10/505,951	:	ON PETITION
Filed: August 27, 2004	:	
Attorney Docket No. 765/14033.2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 11, 2009, to revive the above-identified application.

The petition is **GRANTED.**

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 $245 submitted with the petition on September 11, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account along with the $810 petition under 37 CFR 1.137(b) fee, which was previously paid on May 7, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1657 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090503

DATE : May 03, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7314950

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

20 APR 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark H. Neblett
CROWELL & MORING LLP
P.O. Box 14300
Washington, D.C. 20044-4300

In re application of	:	
SEITZ, Peter	:	
U.S. Application No.: 10/505,971	:	
International Application: PCT/IB2003/000371	:	DECISION ON PETITION
International Filing Date: 05 February 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 28 February 2002	:	
Attorney Docket No.:011235.55247US	:	
For: ANTI-STALL CASING TREATMENT	:	
FOR TURBO COMPRESSORS	:	

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.37(b)" filed 30 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 February 2003, applicants filed international application PCT/IB2003/000371 which claimed priority of an earlier application filed 28 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, 28 August 2004.

On 27 August 2004, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 16 March 2005, a Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) was mailed stating an Oath/Declaration must be furnished identifying the International Application number and International Filing date.

On 25 October 2005, a Notification of Defective Response was mailed stating the Oath/Declaration did not identify the citizenship of the inventor.

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 required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response, i.e., a Declaration, identifying the inventor's citizenship, in response to the Notification of Defective Response, has been received.

As to Item (2), the appropriate petition fee of $1500.00 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), applicant's statement that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" has been satisfied.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing.

Terrence R. Till
Petitions Detailee
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313
VOX (571) 272-6094
FAX (571) 273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313
VOX (571) 272-3288
FAX (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Peter Seitz	: DECISION ON REQUEST FOR
Patent Number	: 7575412	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,971	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

13 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Rec'd PCT/PTO 25 AUG 2004

THE FIRM OF KARL F. ROSS P.C.
5676 RIVERDALE AVE. BOX 900
RIVERDALE (BRONX), NY 10471

In re Application of HÜCKER Serial No.: 10/505,973 PCT App. No.: PCT/EP03/00895 Int'l Filing Date: 24 January 2003 Priority Date: 05 February 2002 Attorney Docket No.: 22994 For: MEASURING DEVICE FOR MONITORING STERILIZATION CONDITIONS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the " the entire delay in filing the requisite papers from the due date for such filing, 05 August 2004, until the filing of a grantable petition, namely, the present petition, was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $540 has been 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 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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

JUN 0 9 2008

In re Patent No. 7,175,706	:	
MIZUTANI et al.	:	
Issue Date: February 13, 2007	:	LETTER REGARDING
Application No. 10/505,979	:	PATENT TERM ADJUSTMENT
Filed: August 27, 2004	:	
Atty Docket No. 03500.017068	:	

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed March 29, 2007. Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On February 13, 2007, the above-identified application matured into U.S. Patent No. 7,175,706, with a revised patent term adjustment of 115 days. On March 29, 2007, patentee submitted the instant comment. Patentee states no basis for the request for review of the patent term adjustment.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for Patentee's delay was correct. Patentee does not state a basis for their disagreement with the according of 115 days of PTA. A copy of the PAIR calculations for this application is enclosed. Patentee continues to be under a duty to advise the Office of any error in according too much PTA.

In view thereof, the revised Patent Term Adjustment remains 115 days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: PAIR screen for U.S. Application No. 10/505,979

Patent eBusiness

- Electronic Filing
- Patent Application Information (PAIR)
- Patent Ownership
- Fees
- Supplemental Resources & Support

Patent Information

Patent Guidance and General Info
- Codes, Rules & Manuals
- Employee & Office Directories
- Resources & Public Notices

Patent Searches

Patent Official Gazette
- Search Patents & Applications
- Search Biological Sequences
- Copies, Products & Services

Other

Copyrights
Trademarks
Policy & Law
Reports

Patent Application Information Retrieval

Order Certified Application As Filed Ord

10/505,979 PROCESS OF PRODUCING MULTICRYSTALLIN CELL

Select New Case | Application Data | Transaction History | Image File Wrapper | Patent Term Adjustments | Continuity Data

Patent Term Adjustment

Filing or 371(c) Date:	08-27-2004	USPTO Delay (
Issue Date of Patent:	02-13-2007	Three Years:
Pre-Issue Petitions (days):	+0	Applicant Dela
Post-Issue Petitions (days):	+0	Total Patent Te
USPTO Adjustment (days):	+0	Explanation Of

Patent Term Adjustment History

Date	Contents Description
02-13-2007	Patent Issue Date Used in PTA Calculation
01-16-2007	Dispatch to FDC
01-12-2007	Application Is Considered Ready for Issue
10-19-2006	Information Disclosure Statement considered
12-09-2006	TC Return to Pubs
12-11-2006	Examiner's Amendment Communication
11-29-2006	Pubs Case Remand to TC
11-14-2006	Mail Miscellaneous Communication to Applicant
11-13-2006	Miscellaneous Communication to Applicant - No Action (
10-19-2006	Information Disclosure Statement (IDS) Filed
10-24-2006	Issue Fee Payment Verified
10-24-2006	Issue Fee Payment Received
10-11-2006	Pubs Case Remand to TC
09-19-2006	Mail Notice of Allowance
05-08-2006	Notice of Allowance Data Verification Completed
05-08-2006	Case Docketed to Examiner in GAU
03-30-2006	Information Disclosure Statement considered
03-30-2006	Information Disclosure Statement (IDS) Filed
04-13-2006	Date Forwarded to Examiner
03-30-2006	Response after Non-Final Action
01-26-2006	Mail Non-Final Rejection
01-23-2006	Non-Final Rejection

01-27-2005	Information Disclosure Statement considered
08-27-2004	Information Disclosure Statement considered
10-27-2005	IFW TSS Processing by Tech Center Complete
10-27-2005	Case Docketed to Examiner in GAU
01-27-2005	Reference capture on IDS
01-27-2005	Information Disclosure Statement (IDS) Filed
08-27-2004	Preliminary Amendment
08-27-2004	Information Disclosure Statement (IDS) Filed
08-27-2004	Request for Foreign Priority (Priority Papers May Be Incl
03-10-2005	Cleared by OIPE CSR
03-10-2005	Cleared by OIPE CSR
03-02-2005	Cleared by OIPE CSR
08-27-2004	371 Completion Date
02-18-2005	Application Dispatched from OIPE
02-18-2005	Notice of DO/EO Acceptance Mailed
08-27-2004	Initial Exam Team nn

If you need help:

- *Call the Patent Electronic Business Center at (866) 217-9197 (toll fr questions about Patent Application Information Retrieval (PAIR).*
- *Send general questions about USPTO programs to the USPTO Contac*
- *If you experience technical difficulties or problems with this applicati Business Support or call 1 800-786-9199.*

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov
your suggestions will be considered and may lead to other improvements on the

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

AUG 04 2008

In re Patent No. 7,175,706	:	
MIZUTANI et al.	:	LETTER REGARDING PATENT
Issue Date: February 13, 2007	:	TERM ADJUSTMENT AND
Application No. 10/505,979	:	NOTICE OF INTENT TO ISSUE
Filed: August 27, 2004	:	CERTIFICATE OF CORRECTION
Atty Docket No. 03500.017068	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF DETERMINATION OF PATENT TERM ADJUSTMENT," filed July 17, 2008. Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **24 days**.

On February 13, 2007, the above-identified application matured into U.S. Patent No. 7,175,706, with a revised patent term adjustment of 115 days. Patentee states no basis for the request for review of the patent term adjustment.

Upon further review of the application history, it concluded that the determination of patent term adjustment under 35 U.S.C. 154(b) of 115 days is incorrect.

On October 19, 2006, patentee submitted a "REQUEST FOR RETURN OF INITIALED PTO-1449 FORM" after the mailing of the notice of

allowance, which under the circumstances of this application, is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

> 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;

A review of the record reveals that the Office incorrectly calculated the period of reduction under 37 CFR 1.704(c)(10) from October 19, 2006, the date "REQUEST FOR RETURN OF INITIALED PTO-1449 FORM" was filed, to November 13, 2006, the date of the mailing of an Office communication. However, the Office communication of November 13, 2006, did respond to the "REQUEST FOR RETURN OF INITIALED PTO-1449 FORM." As the Office did not address the "REQUEST FOR RETURN OF INITIALED PTO-1449 FORM" before the issuance of the patent, the Office should have used February 13, 2007, the date the patent issued, instead of November 13, 2006, for the purpose of calculating the period of reduction under 37 CFR 1.704(c)(10). Accordingly, the period of adjustment should have been reduced by the lesser period of 118 days (not 27 days), beginning on the date the "REQUEST FOR RETURN OF INITIALED PTO-1449 FORM" was filed, October 19, 2006, and ending on the date the patent issued, February 13, 2007.

In view thereof, the patent should have issued with a revised patent term adjustment of **24 days**.

As this letter was submitted as an advisement to the Office of an error in patentee's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.18(e). The Office thanks

patentee for patentee's good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **24 days** (142 days of Office delay - 118 days of applicant delay).

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,175,706

DATED : February 13, 2007

INVENTOR(S) : Mizutani 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 (115) days

Delete the phrase "by 115 days" and insert – by 24 days--

PALM INTRANET

Day : Friday
Date: 8/1/2008
Time: 13:34:34

PTA Calculations for Application: 10/505979			
Application Filing Date:	08/27/2004	PTO Delay (PTO):	142
Issue Date of Patent:	02/13/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	27
Post-Issue Petitions:	0	Total PTA (days):	24
PTO Delay Adjustment:	-91		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	08/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
47	02/13/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
46	01/17/2007	EXPORT TO FINAL DATA CAPTURE			
45	01/16/2007	DISPATCH TO FDC			
44	01/12/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
43	10/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	01/05/2007	FINISHED INITIAL DATA CAPTURE			
41	12/22/2006	WORKFLOW - QUERY REQUEST - FINISH			
40	12/09/2006	TC RETURN TO PUBS			
39	12/11/2006	EXAMINER'S AMENDMENT COMMUNICATION			
38	11/29/2006	PUBS CASE REMAND TO TC			
37	12/01/2006	WORKFLOW - QUERY REQUEST - BEGIN			
36	11/21/2006	WORKFLOW - QUERY REQUEST - FINISH			
35	11/14/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
34	11/13/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
33	10/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		27	35
32	10/24/2006	ISSUE FEE PAYMENT VERIFIED			
31	10/24/2006	ISSUE FEE PAYMENT RECEIVED			
30	10/11/2006	PUBS CASE REMAND TO TC			
29	10/16/2006	WORKFLOW - QUERY REQUEST - BEGIN			
28	09/22/2006	EXPORT TO INITIAL DATA CAPTURE			
27	09/19/2006	MAIL NOTICE OF ALLOWANCE	51		19

26	05/08/2006	ISSUE REVISION COMPLETED			
25	05/08/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
24	05/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
23	05/01/2006	NOTICE OF ALLOWABILITY			
22	03/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	03/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	19
20	04/13/2006	DATE FORWARDED TO EXAMINER			
19	03/30/2006	RESPONSE AFTER NON-FINAL ACTION			
18	01/26/2006	MAIL NON-FINAL REJECTION	91		-1
17	01/23/2006	NON-FINAL REJECTION			
16	01/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	08/27/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	10/27/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	10/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	01/27/2005	REFERENCE CAPTURE ON IDS			
11	01/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/27/2004	PRELIMINARY AMENDMENT			
9	08/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	08/27/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7	03/10/2005	CLEARED BY OIPE CSR			
6	03/10/2005	CLEARED BY OIPE CSR			
5	03/02/2005	CLEARED BY OIPE CSR			
4	08/27/2004	371 COMPLETION DATE			
3	02/18/2005	APPLICATION DISPATCHED FROM OIPE			
2	02/18/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	08/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Bruce N Alleshouse	: DECISION ON REQUEST FOR
Patent Number	: 7600685	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/505,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **869** 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: T. Page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/14/07

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/505,998 Patent No.: 7,160,031

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: _____

Joseph K McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Acting
1621

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 17 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DANIEL A. MONACO
DRINKER BIDDLE & REATH
ONE LOGAN SQUARE
18TH & CHERRY STREETS
PHILADELPHIA, PA 19103-6996

In re Application of	:
E. Premkumar Reddy et al	:
Serial No.: 10/506,005	: PETITION DECISION
Filed: August 27, 2004	:
Attorney Docket No.: 06056-0308US1	:

This is in response to the petition under 37 CFR 1.144, filed May 29, 2007, requesting withdrawal of an improper Lack of Unity requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on August 27, 2004, and contained, as amended by preliminary amendment, filed June 5, 2005, claims 1-91. In a first Office action, mailed November 3, 2006, the examiner set forth a five-way Lack of Unity requirement (not reproduced here). In a response, filed December 1, 2006, applicants made minor amendments to the claims to clarify them, made an election of Group I and traversed the requirement as improper and not in accordance with PCT guidelines.

On January 5, 2007, the examiner vacated the original Lack of Unity requirement and issued a new Lack of Unity requirement dividing the claims into sixteen groups, as follows:

Group I, claims 1-13, 16-52 and 74-80, drawn to benzylsulfone compounds of Formula I and a method of treating diseases using the compounds;
Group II, claims 14-15, drawn to benzylsulfone compounds of Formula IIa;
Group III, claim 53, drawn to a process of preparation of compounds of Formula IIIa;
Group IV, claim 54, drawn to a process of preparation of compounds of Formula IIa;
Group V, claims 55-56, drawn to a process of preparation of compounds of Formula IV;
Group VI, claims 57-58, drawn to a process of preparation of compounds of Formula V;
Group VII, claims 59-60, drawn to a process of preparation of compounds of Formula VI;
Group VIII, claim 61, drawn to a process of preparation of compounds of Formula VII;
Group IX, claim 62, drawn to a process of preparation of compounds of Formula VIII;
Group X, claim 63, drawn to a process of preparation of compounds of Formula IX;
Group XI, claim 64, drawn to a process of preparation of compounds of Formula X;

Group XII, claims 65-66, drawn to a process of preparation of compounds of Formula XX;

Group XIII, claims 67-73, drawn to a conjugate of I-L-Ab (where I is the compound of Formula I);

Group XIV, claims 81-86, drawn to a method of treating cancer;

Group XV, claims 87-88, drawn to benzylsulfone compounds of Formula D;

Group XVI, claims 88-91, drawn to benzylsulfone compounds of Formula H.

The examiner reasoned that the Groups, lacked unity as lacking the same or corresponding special technical feature, especially as the processes are different.

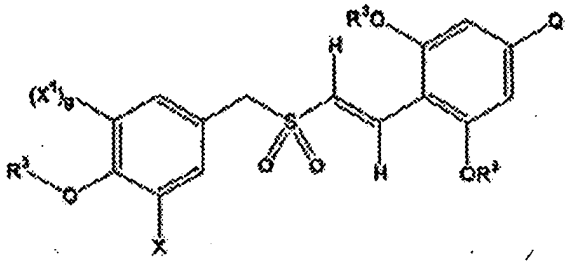
Applicants replied on January 22, 2007, electing Group I, with traverse, on the basis that Unity does exist based on the base structure common to all compounds and that PCT allows the combination of the product (compound) and its method of making and/or using as having Unity. Applicants also argued that some groups were in a combination/subcombination relationship and had Unity based on the common structure.

The examiner mailed a new Office action to applicants on March 2, 2007, noting the election of Group I and the traversal, but maintaining the Lack of Unity on the same basis as set forth in the previous Office action and making the requirement Final. Claims 1-13, 16-52 and 74-80 were rejected for obvious double patenting over US 7,161,031.

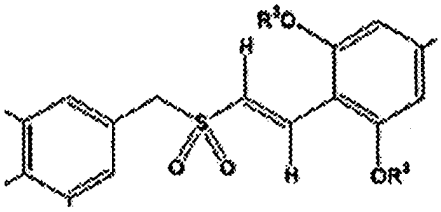
Applicants filed this petition on May 29, 2007, requesting withdrawal of the Lack of Unity requirement and a concurrent reply to the Office action which has not been addressed pending decision on this petition (other than to send a Notice of Non-compliant Amendment on June 7, 2007, to which reply was made on June 18, 2007).

DISCUSSION

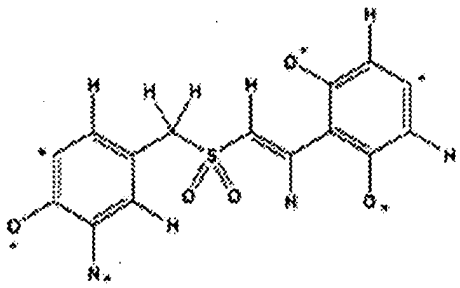
Applicants argue that the examiner has failed to follow properly the guidelines in M.P.E.P. 1893.03(d) and other sections and comparable PCT Rule 13 guidelines relating to Unity of Invention practice in determining Lack of Unity in this application. Applicants state that the examiner states that there is no special technical feature which unites the groups. It is noted that Claim 1 sets forth a general structure for the compounds as Formula I, as shown:



The special technical feature of Claim 1 is defined by the structure of Formula I minus the variable groups (also shown as substructure A in applicants' petition), as shown here:



or



(Substructure A)

Note that the major variable groups of claim 1 are X which is always a nitrogen containing group (amine, etc) bonded through the nitrogen and X^1, also a nitrogen containing group bonded through the nitrogen. But these groups are not part of the common structure which constitutes the special technical feature. In view of this determination of the special technical feature, the claims of Group II, which are found to have the same special technical feature as the claims of Group I, should have been included with the claims of Group I. The examiner groups all compound claims (1-13 and 16-51) having this structure together along with a **first process of making** these compounds (claim 52) along with the pharmaceutical composition claims (74-77) and a **first method of using** the compounds (claims 78-80). It is noted that PCT guidelines Chapter 10, Search and Examination Guidelines) state that where multiple methods of making and/or using a product are claimed only the first method of making and/or using shall be considered to have unity with the product (compound). Thus the examiner's holding that the additional methods of making set forth in the claims of each of Groups III-XII are properly held to lack Unity with the main Group, Group I, is in accordance with PCT guidelines.

The Group XIII claims (67-73) are to a conjugate which incorporates the structure defined by claim 1. Since the patentability of these claims would appear to depend directly on the patentability of the claims of Group I, these claims should have been included with the claims of Group I. (It is noted that claims 76-77 to a pharmaceutical composition including the conjugate were included with Group I.)

The Group XIV claims (81-86) are directed to a second method of use (treating cancer) and are also properly held to lack Unity with the first method of use included with Group I, various types of proliferative diseases (see claim 80). While cancer may be considered a proliferative disease it is of a different type that those set forth in claim 80.

As noted by applicants the claims of Groups XV and XVI are directed to intermediates useful in forming the final products and are thus said to be in a combination/subcombination relationship with the compounds of Group I. However, these groups are properly found to lack Unity with the compounds of Formula I since they do not encompass the entirety of the special technical feature as set forth in the claims of Group I. Note that the terminal COOH group must be removed in order for the trisubstituted benzene ring (which is part of the special technical feature in Formula I) to be attached. However, they do have Unity with each other and should not constitute two Groups (see Substructure B in applicants' petition)

In view of the above the Lack of Unity requirement is modified, as follows: Groups I, II and XIII are joined as a single Group (Group I). Groups XV and XVI are also joined as a single Group (Group XV). Remaining Groups III-XII, drawn to additional methods of making the compounds, and Group XIV, drawn to an additional method of using the compounds are held to properly Lack Unity with Groups I and XV (noted above) under PCT guidelines, but may be subject to rejoinder with Group I (as requested by applicants) should the claims of Group I be found patentable.

DECISION

The petition is **GRANTED-IN-PART**, as noted above. Newly added claims 92-100 will be placed in the appropriate Groups above by the examiner.

The application will be forwarded to the examiner for further consideration of applicants' replied received May 29, 2007 and June 18, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Christopher Low
Director TC1600 (acting) for

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Daniel A Monaco
Drinker Biddle & Reath
One Logan Square
18th & Cherry Streets
Philadelphia PA 19103-6996

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application :
Reddy, et al. :
Application No. 10/506,005 : PATENT TERM ADJUSTMENT
Filed: August 27, 2004 :
Dkt. No.: 06056-0308US1 :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 23, 2009.

Applicants submit that the correct patent term adjustment to be indicated on the patent is 1,077 days, not 208 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

Applicants request this correction based on the following three arguments: (1) the Office will take in excess of three years to issue this patent; (2) the adjustment of 372 days in connection with the restriction requirement mailed November 3, 2006 is incorrect, the correct adjustment being 435 days; and, (3) on the basis that the adjustment was improperly reduced 116 days in connection with the supplemental reply filed June 2, 2008.

As to item (1) set forth above, insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

As to item (2) set forth above, a review of the record supports a conclusion that the restriction requirement mailed November 3, 2006 was vacated and a new restriction requirement mailed January 5, 2007. Thus, in accordance with 37 CFR 1.702(a)(1), the application is entitled to an adjustment of 435 days rather than 372 days, as argued. The adjustment commenced October 28, 2005, the day after the date that is 14 months after the date that the application was filed and ended January 5, 2007, the date that the restriction requirement was re-mailed.

In view thereof, the request for correction of the adjustment from 372 days to 435 days is GRANTED.

As to item (3) set forth above, applicants argue that the supplemental reply filed June 2, 2008 was expressly requested by the examiner and, thus, the submission of the supplemental reply is not a supplemental reply within the meaning of 37 CFR 1.704(c)(8).

Applicants' arguments have been carefully reviewed, but are not persuasive. A review of the record does not support a conclusion that the supplemental reply submitted June 2, 2008 was expressly requested by the examiner of record. The record contains no interview summary to this effort nor does the subsequently mailed non-final Office action dated June 23, 2008 make reference to such a request. A review of the reply submitted June 2, 2008 further does not suggest that the supplemental reply was being submitted at the express request for the examiner

---

[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.

of record. Instead, the reply filed June 2, 2008 merely speaks to suggestions made by the examiner of record during the course of several interviews. To the extent that applicants addressed these alleged suggestions within the supplemental reply filed June 2, 2008, the record does not support a conclusion that the supplemental reply was submitted at the express request for the examiner of record.

In accordance with 37 CFR 1.704(c)(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, constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application.

Furthermore, if an amendment is requested by an examiner, the examiner will have the paper processed so that it is included as part of an interview summary or examiner's amendment and not a separate paper for PALM to flag in the patent term adjustment calculation. No such action was taken in this application.

In view thereof, the request for removal of the 116 day reduction pursuant to 37 CFR 1.704(c)(8) is DISMISSED.

In view thereof, as of the time of allowance, the application is entitled to an overall adjustment of 271 days (adjustments of 453 days less reductions of 182 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).

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 the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Day : Monday
Date: 8/31/2009

PALM INTRANET

Time: 08:59:58

PTA Calculations for Application: 10/506005			
Application Filing Date:	08/27/2004	PTO Delay (PTO):	390
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	182
Post-Issue Petitions:	0	Total PTA (days):	271
PTO Delay Adjustment:	63		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
98	08/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	435		
97	08/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		372	
90	01/27/2009	MAIL NOTICE OF ALLOWANCE	2		77
89	01/22/2009	ISSUE REVISION COMPLETED			
88	01/22/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
87	01/22/2009	CASE DOCKETED TO EXAMINER IN GAU			
86	01/22/2009	DOCUMENT VERIFICATION			
85	01/21/2009	NOTICE OF ALLOWABILITY			
78	10/24/2008	DATE FORWARDED TO EXAMINER			
77	09/25/2008	RESPONSE AFTER NON-FINAL ACTION		2	76
76	06/23/2008	MAIL NON-FINAL REJECTION	16		48
75	06/20/2008	NON-FINAL REJECTION			
74	06/17/2008	DATE FORWARDED TO EXAMINER			
73	06/02/2008	SUPPLEMENTAL RESPONSE		116	48
72	06/17/2008	DATE FORWARDED TO EXAMINER			
71	05/19/2008	SUPPLEMENTAL RESPONSE			
49	03/13/2008	DATE FORWARDED TO EXAMINER			
48	02/07/2008	RESPONSE AFTER NON-FINAL ACTION		44	45
47	02/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	09/25/2007	MAIL NOTICE OF WITHDRAWN ACTION			
45	09/25/2007	MAIL NON-FINAL REJECTION			
44	09/21/2007	NON-FINAL REJECTION			
43	09/21/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
41	08/28/2007	MAIL NON-FINAL REJECTION			

40	08/23/2007	NON-FINAL REJECTION			
39	08/17/2007	MAIL-PETITION DECISION - GRANTED IN PART			
38	07/03/2007	DATE FORWARDED TO EXAMINER			
37	06/18/2007	RESPONSE AFTER NON-FINAL ACTION		20	33
36	05/29/2007	PETITION ENTERED			
35	06/07/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
34	06/07/2007	DATE FORWARDED TO EXAMINER			
33.1	05/29/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
33	05/29/2007	RESPONSE AFTER NON-FINAL ACTION			
32	03/02/2007	MAIL NON-FINAL REJECTION			
31	02/27/2007	NON-FINAL REJECTION			
30	10/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	08/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	02/02/2007	DATE FORWARDED TO EXAMINER			
26	01/22/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
25	01/05/2007	MAIL RESTRICTION REQUIREMENT			
24	12/26/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
23	12/14/2006	DATE FORWARDED TO EXAMINER			
22	12/01/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
21	11/03/2006	MAIL RESTRICTION REQUIREMENT	372		-1
20	10/27/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
19	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
18.7	08/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	08/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/26/2006	REFERENCE CAPTURE ON IDS			
16.7	06/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	05/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	06/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	06/06/2005	PRELIMINARY AMENDMENT			

12	03/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	10/12/2004	REFERENCE CAPTURE ON IDS			
10.7	10/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/27/2004	PRELIMINARY AMENDMENT			
8	03/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
7	03/10/2005	CLEARED BY OIPE CSR			
6	03/09/2005	CLEARED BY OIPE CSR			
5	03/09/2005	CLEARED BY OIPE CSR			
4	08/27/2004	371 COMPLETION DATE			
3	02/22/2005	APPLICATION DISPATCHED FROM OIPE			
2	02/22/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	08/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Daniel A Monaco
Drinker Biddle & Reath
One Logan Square
18th & Cherry Streets
Philadelphia PA 19103-6996

COPY MAILED
MAR 01 2010

In re Patent No. 7,598,232
Issued : October 6, 2009
Application No. 10/506,005
Filed: August 27, 2004
Dkt. No.: 06056-0308US1

: DECISION ON REQUEST FOR
: RECONSIDERATION OF PATENT
: TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This decision is in response to the application for patent term adjustment under 37 CFR 1.705(d), filed November 4, 2009 and December 7, 2009. This is also a decision on the petition under 37 CFR 1.182 requesting expedited rendering of the decision under 37 CFR 1.182 filed January 28, 2010.

DECISION UNDER 37 CFR 1.182

In general decision on petitions are rendered in the order by which they are filed. However, the Office of Petitions will consider a request for expedited rendering of a decision upon submission of a petition under 37 CFR 1.182.

The instant petition under 37 CFR 1.182 has been carefully considered and is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.705(d)

Patentees herein request 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 1,422 days.

The applications for patent term adjustment to correct the patent term adjustment to indicate that the above-identified patent is extended or adjustment by 1,422 days is GRANTED.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **1,422 days**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) and the $400.00 petition fee set forth in 37 CFR 1.17(f). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,232

DATED : October 6, 2009 DRAFT

INVENTOR(S) : Reddy 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 651 days

Delete the phrase "by 651 days" and insert – by 1,023 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 11 2010

OFFICE OF PETITIONS

Daniel A Monaco
Drinker Biddle & Reath
One Logan Square
18th & Cherry Streets
Philadelphia PA 19103-6996

In re Patent No. 7,598,232
Issued : October 6, 2009
Application No. 10/506,005
Filed: August 27, 2004
Dkt. No.: 06056-0308US1

: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This decision is in response to the communication filed March 9, 2010 with respect to a petition under 37 CFR 1.182; 37 CFR 1.181; and 37 CFR 1.705(d).

DECISION UNDER 37 CFR 1.182

In general decision on petitions are rendered in the order by which they are filed. However, the Office of Petitions will consider a request for expedited rendering of a decision upon submission of a petition under 37 CFR 1.182.

The instant petition under 37 CFR 1.182 has been carefully considered and is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

DECISION UNDER 37 CFR 1.181 and 705(d)

Patentees herein request 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 1,023 or 1,139 days.

The application history has been carefully reviewed and the calculation of patent term adjustment has been determined as follows:

The application is entitled to an overall adjustment under 37 CFR 1.702(a) and (b) of 1,263 days (492 days pursuant to 37 CFR 1.702(a) and 771 days pursuant to 37 CFR 1.702(b)).

The application is entitled to an adjustment of 435 days pursuant to 37 CFR 1.702(a)(1) in connection with the mailing of the Office communication on January 5, 2007.

The application is entitled to an adjustment of 16 days in accordance with 37 CFR 1.702(a)(2) in connection with the Office communication mailed June 23, 2008.

The application is entitled to an adjustment of two days in accordance with 37 CFR 1.702(a)(2) in connection with the Office communication mailed January 27, 2009.

The application is entitled to an adjustment of 39 days in connection with the issuance of the patent in accordance with 37 CFR 1.702(a)(4).

The application is entitled to an overall adjustment of 771 days pursuant to 37 CFR 1.702(b).

The periods of adjustment under CFR 1.702(a) and 1.702(b) overlap 57 days.

The patent term adjustment is properly reduced 67 days for applicant delay pursuant to 37 CFR 1.704.

The adjustment is properly reduced 20 days in accordance with 37 CFR 1.704(c)(7) in connection with the reply filed June 18, 2007.

The adjustment is further reduced 44 days in accordance with 37 CFR 1.704(b) in connection with the reply filed February 7, 2008.

The reduction of 116 days is in error, as argued by patentees. The record has been carefully reviewed and the conclusion has been reached that the communication filed June 2, 2008 was submitted at the request of the examiner of record. According, the reduction of 116 days has been withdrawn.

The adjustment is further reduced two days in accordance with 37 CFR 1.704(b) in connection with the reply filed September 25, 2008.

The adjustment is further reduced one day in accordance with 37 CFR 1.704(b) in connection with the reply filed April 28, 2009.

In view thereof, patentees are entitled to an overall adjustment of 1,139 days (771 days under 37 CFR 1.702(b) + 492 days under 37 CFR 1.702(a) – 67 days of applicant delay – 57 overlapping days), as argued by patentees.

The petition and applications for patent term adjustment to correct the patent term adjustment to indicate that the above-identified patent is extended or adjustment by 1,139 days is GRANTED.

No additional fees are due in connection with this matter.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **1,139 days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,232

DATED : October 6, 2009 DRAFT

INVENTOR(S) : Reddy 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 651 days

Delete the phrase "by 651 days" and insert – by 1,139 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
OCT 30 2006
OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC F 20005

In re Application of	:
Michael F. Holick et al	:
Application No. 10/506,012	: DECISION GRANTING PETITION
Filed: August 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1539.0370001/RWE	:

This is a decision on the petition, filed October 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 25, 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 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Oct10\506012.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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

HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 05/10/2010

Applicant	: Bianca Bley	: DECISION ON REQUEST FOR
Patent Number	: 7648648	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/506,018	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **461** 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.

1 5 FEB 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

IP STRATEGIES
12 1/2 WALL STREET
SUITE I
ASHEVILLE, NC 28801

In re Application of KAHL	:	
U.S. Application No.: 10/506,028	:	
PCT Application No.: PCT/EP2003/002086	:	DECISION
Int. Filing Date: 28 February 2003	:	
Priority Date Claimed: 28 February 2002	:	
Attorney Docket No.: GRUNP38	:	
For: MICROFLUID SYSTEM	:	

This is in response to applicant's "Request for Corrected Filing Receipt" filed 05 May 2006.

BACKGROUND

On 28 February 2003, applicant filed international application PCT/EP2003/002086, which claimed priority of an earlier European Patent Office application filed 28 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 28 August 2004.

On 26 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 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 21 January 2005, applicant filed an executed declaration.

On 01 March 2005, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 05 May 2006, applicant filed the present request for corrected filing receipt.

DISCUSSION

MPEP 1893.03(b) provides that the "Filing or 371(c) Date" on the official filing receipt is the date of receipt of the 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements. A review of the present application file reveals that the declaration was filed on 21 January 2005. Thus, the filing date listed on the filing receipt is not in error based on the evidence of record.

CONCLUSION

For the reasons above, the request is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

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 Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

13 APR 2007

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Hyoseop SHIN	:	DECISION ON
Application No.: 10/506,031	:	
PCT No.: PCT/KR2003/001262	:	
Int. Filing Date: 27 June 2003	:	
Priority Date: 23 July 2002	:	PETITION UNDER
Attorney Docket No.: SDP020031PCT	:	
For: ENCODED MULTI-KEY INDEX DATA	:	
STREAM STRUCTURE	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed 16 January 2007, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of a complete copy of the executed declaration purportedly filed in the USPTO on 09 June 2005. Applicants have submitted, inter alia, a complete copy of the executed declaration and a copy pf the USPTO stamped itemized postcard receipt.

BACKGROUND

On 30 August 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 filed at that time.

On 11 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, Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date must be submitted within two months from the date of this notice or by 32 months form the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

On 09 June 2005, applicant filed a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS," which included a declaration.

On 08 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) stating that only the first page of the declaration had been received in the office.

On 16 January 2007, applicant submitted this petition indicating that the response to the Notification of Missing Requirements, an executed declaration, was filed as indicated in the copy of the postcard and that filed petition includes an executed declaration.

DISCUSSION

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.
>
> It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).
>
> It further states:
>
> 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 a 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.

A review of the copy of the stamped postcard provided only lists a copy of the executed Declaration and Power of Attorney has been submitted but does not specify the number of pages of the declaration as stipulated under MPEP 503. Because there is no evidence that the second page of the declaration was filed on 09 June 2005, the date considered for the USPTO receiving a complete executed declaration is 16 January 2007.

The Notification of Acceptance (PCT/DO/EO/903) mailed 02 March 2007 based on the evidence provided was correctly mailed with the proper date of 16 January 2007 as the 35 USC 371(c)(1), (c)(2) and (c)(4) date.

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". Failure to respond will result in the ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Peter Groppel	: DECISION ON REQUEST FOR
Patent Number	: 7582706	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **862** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

13 JUN 2006

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

B.J. Sadoff
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22293-1808

In re Application of	:	
DESANTIS, et al.	:	
U.S. Application No.: 10/506,046	:	DECISION ON PETITION
PCT No.: PCT/IT03/00104	:	
Int. Filing Date: 25 February 2003	:	37 CFR 1.181
Priority Date: 28 February 2002	:	
Attorney Docket No.:2818-215	:	
For: LONG PENTRAXIN PTX3 FUNCTIONAL DERIVATIVES FOR PREPARING AN AUTO-LOGOUS VACCINE FOR THE TREATMENT OF TUMOURS	:	

This decision is in response to applicant's "Request to Withdraw Holding of Abandonment of March 13, 2006, due to Non-Receipt of Notification to Comply Dated February 22, 2005" filed 16 March 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 25 February 2003, applicant filed international application PCT/IT03/00104, which claimed priority of an earlier application filed 28 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, 28 August 2004.

On 30 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 executed declaration of the inventors; an assignment document and a First Preliminary Amendment.

On 22 February 2005, applicant was mailed a "Notification to Comply With Requirements For Patent Application Containing Nucleotide And/Or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) informing applicant that a copy of the "Sequence Listing" in computer readable form had not been submitted. Applicant was afforded two months to file a proper response.

On 13 March 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/922 mailed 22 February 2005 within the time period set therein and that above-identified application was abandoned as to the United States.

On 16 March 2006, applicant filed the petition considered herein.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied items (1), (3) and (4) above.

As to item (2), applicant has not provided a statement that a search of the file jacket indicates that the Form PCT/DO/EO/922 mailed 22 February 2005 was not received.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

2 7 MAY 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

B.J. Sadoff
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22293-1808

In re Application of	:	
DESANTIS, et al.	:	
U.S. Application No.: 10/506,046	:	DECISION ON
PCT No.: PCT/IT03/00104	:	
Int. Filing Date: 25 February 2003	:	RENEWED PETITION
Priority Date: 28 February 2002	:	
Attorney Docket No.:2818-215	:	UNDER 37 CFR 1.181
For: LONG PENTRAXIN PTX3 FUNCTIONAL DERIVATIVES FOR PREPARING AN AUTO-LOGOUS VACCINE FOR THE TREATMENT OF TUMOURS	:	

This decision is in response to applicant's status inquiries of 02 July 2007 and 31 January 2008 which are being treated as petitions under 37 CFR 1.181 to accept the copy filed 02 July 2007 of a renewed petition filed 16 June 2006 which was never forwarded to the Office of PCT Legal Administration.

BACKGROUND

On 13 June 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment. Applicant was afforded two months to file any request for reconsideration.

On 02 July 2007, applicant filed a status inquiry which included a return postcard receipt and copy of a petition purportedly filed on 16 June 2006. Applicant filed a second status inquiry on 31 January 2008.

DISCUSSION

I. Petition Under 37 CFR 1.181 to Accept Copy Filed on 02 July 2007 as Timely

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 return postcard receipt which is stamped "OIPE JUN 16 2006 Patent & Trademark Office IAP56." Among the items listed is "Renewed Petition Under 37 CFR 1.181." The postcard identifies the application by inventor, serial number and title. Thus, it is clear that applicant filed a renewed petition under 37 CFR 1.181 on 16 June 2006 in response to the

decision mailed 13 June 2006. Applicant has certified that the present petition is a true and complete copy of the petition filed 16 June 2006. As such, it is proper to grant the petition and consider the present renewed petition under 37 CFR 1.181 as timely.

II. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

As detailed in the decision mailed 13 June 2006, the Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant previously satisfied items (1), (3) and (4) above.

With the filing of the present renewed petition applicant has provided a statement that a search of the file jacket indicates that the Form PCT/DO/EO/922 mailed 22 February 2005 was not received thus satisfying the final item listed above.

CONCLUSION

For the reasons detailed above, applicant's petitions under 37 CFR 1.181 are **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 13 March 2006 is hereby **VACATED**.

This application is being returned to the Designated/Elected Office for consideration of applicant's 02 July 2007 submission.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 04/21/2010

Applicant	: Gerwin Jan Puppels	: DECISION ON REQUEST FOR
Patent Number	: 7656522	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Zoltan Szekely	: DECISION ON REQUEST FOR
Patent Number	: 7605125	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,085	: 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 **1030** 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.

21 JUN 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John P. Musone
SIEMENS CORPORATION
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

In re application of SIEMENS CORPORATION U.S. Application No.: 10/506,086 International Application No.: PCT/DE03/00612 Filing Date: 25 February 2003 Priority Date: 28 February 2002 Attorney Docket No.: 2002P03164WOUS For: METHOD, DEVICE AND COMPUTER PROGRAM FOR VERIFYING THE AUTHENTICITY OF NON-ELECTRONIC DOCUMENTS	DECISION ON PETITION UNDER 37 C.F.R. 1.181

This notification is in response to applicant's facsimile response, filed 01 February 2006, to the Notice of Abandonment (PCT/DO/EO/909), mailed 17 January 2006. The submission has been treated as a petition under 37 CFR 1.181 requesting the withdrawal of the Notice of Abandonment.

BACKGROUND

On 25 February 2003, applicants filed international application PCT/DE2003/000612 with the German Receiving Office (RO/DE). The submission was assigned the above-identified International Application Number and International Filing Date.

On 27 August 2004, applicants filed a U.S. national stage application under 35 U.S.C. 371. A Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) was mailed on 21 March 2005 to the applicants. On 17 January 2006, a Notice of Abandonment (PCT/DO/EO/909) was mailed to the applicants indicating that applicant has failed to respond to the Notification of Missing Requirements mailed 21 March 2005.

On 01 February 2006, applicant filed the present request to cancel of the Notice of Abandonment. With this request was a copy of a facsimile transmission dated 09 May 2005 that included a declaration in response to the Notification of Missing Requirements and a facsimile transmission report showing that the facsimile transmission was received by the US Patent and

Trademark Office. The facsimile number to which the response to the Notification of Missing Requirements was sent was 703-746-6695.

DISCUSSION

An investigation into this matter has revealed that the phone number to which applicants' response was sent was, at the time, an official facsimile number for receiving correspondence. Further, the US Patent and Trademark Office has recovered the original facsimile transmission and will be considered timely as having been received on 09 May 2005.

Upon reviewing the response filed 09 May 2005, the application has satisfied the requirements under 35 USC 371(c)(1), (c)(2) and (c)(4) and is given the date of **09 May 2005**.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notice of Abandonment is hereby **WITHDRAWN** and the application, as having now received a timely filed response to the Notification of Missing Requirements, will be forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing.

Terrence R. Till
Petitions Detailee
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313

01 FEB 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Wenderoth, Lind & Ponack LLP
2033 K Street, NW, Suite 800
Washington, DC 20006-1021

In re Application of ORI, Tatsuya et al. Application No.: 10/506,090 PCT No.: PCT/JP01/06168 Int. Filing Date: 17 July 2001 Priority Date: 11 August 2000 Docket No.: 2004_1047A For: POLYMERIZABLE COMPOSITION, CURED PRODUCT THEREOF, AND COMPOSITION MATERIAL	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 09 November 2004 is **GRANTED**.

Applicants' statement that the delay was unintentional is construed to mean "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). If this understanding is not correct, applicants must notify the office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. The fee for late filing of the oath or declaration will be charged to deposit account no.23-0975, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 09 November 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARMAN - BRINKS HOFER CHICAGO
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

JUL 27 2009

OFFICE OF PETITIONS

In re Application of
Michael Becker, et al.
Application No. 10/506,092
Filed: June 3, 2005
Attorney Docket No. 11336-776

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

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 request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client 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. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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 July 2, 2009 does not include the reel and frame number or a proper chain in title.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Blank copy of PTOL/SB/83 Form

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

23 MAR 2006

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

47888
HEDMAN & COSTIGAN P.C.
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
REICHWEIN *et al*	:	
Application No.: 10/506,115	:	
PCT No.: PCT/EP03/01639	:	**DECISION**
Int. Filing Date: 19 February 2003	:	
Priority Date: 28 February 2002	:	
Attorney Docket No.: 302.140	:	
For: PROCESSING OF EPOXY RESIN	:	
MOULDING COMPOSITION	:	

This decision is in response to the papers filed 28 June 2005 which are treated as a petition Under 37 CFR 1.182.

BACKGROUND

On 27 August 2004, applicant filed papers to enter the national stage under 35 U.S.C. 371 of PCT/EP03/01639.

On 27 September 2004, applicants submitted an executed declaration and the $130.00 surcharge fee.

On 14 April 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 declaration submitted 27 September 2004 was not in compliance with 37 CFR 1.497(a) and (b) because the name of one of the inventors was listed as Gunda Kuhlmann on the declaration and as Gunda Panik on the international application. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 09 May 2005, applicants filed a response; however, applicants did not address the change in the inventor's name on the declaration.

On 22 June 2005, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 27 September 2004 does not comply with 37 CFR 1.497(a) and (b) because of the difference in the name of the inventor as discussed above. Applicants were given one month, or any time remaining in the Form PCT/DO/EO/905 to respond, whichever is longer to respond.

On 28 June 2005, applicants filed a response which included a copy of "page 2 of the order letter" sent by the patent department of Bakelite AG to counsel.

DISCUSSION

MPEP § 605.04(c) lists the procedures required to petition to change the name of an inventor and states, in part:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name . . . The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order.

The petition fee of $400.00 has been charged to Deposit Account No. 02-2275 as authorized. However, applicants have not provided an affidavit signed by the inventor whose name changed setting forth both names and the procedure whereby the change of name was effected, nor has applicants submitted a certified copy of the court order. The copy of the letter from the patent department of Bakelite AG submitted is not sufficient.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

The declaration filed 27 September 2004 is still not in compliance with 37 CFR 1.497(a) and (b).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

James Thomson

James Thomson

Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

30 AUG 2006

#15

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

47888
HEDMAN & COSTIGAN P.C.
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
REICHWEIN *et al*	:	
Application No.: 10/506,115	:	
PCT No.: PCT/EP03/01639	:	**DECISION**
Int. Filing Date: 19 February 2003	:	
Priority Date: 28 February 2002	:	
Attorney Docket No.: 302.140	:	
For: PROCESSING OF EPOXY RESIN	:	
MOULDING COMPOSITION	:	

This decision is in response to the papers filed via facsimile on 20 July 2006 which are treated as a renewed petition under 37 CFR 1.182. No fee is required.

BACKGROUND

On 23 March 2006, a decision dismissing applicants' petition to change the name of an inventor was mailed. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 20 July 2006, applicants filed a renewed petition which was accompanied by, *inter alia*, a two-month extension and fee and a declaration of the inventor whose name has changed.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the MPEP lists the procedures required to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order.

In the original petition, petitioners submitted the $400.00 petition fee but did not provide an affidavit signed by the inventor whose name had changed, (Gunda Panik to Gunda Kuhlmann) as required. Hence, applicants' request to change the name of the inventor was dismissed without prejudice.

In the renewed petition, applicants have provided a declaration by the inventor whose name has changed which lists both names and indicating that the change was as a result of marriage.

This is sufficient for a grantable petition.

CONCLUSION

The renewed petition under 37 CFR 1.182 is **GRANTED**.

The declaration submitted 27 September 2004 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 February 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 September 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 MAY 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Moser, Patterson & Sheridan, L.L.P.
3040 Post Oak Boulevard, Suite 1500
Houston, TX 77056

In re Application of BAKKE	:	
U.S. Application No.: 10/506,128	:	
PCT Application No.: PCT/NO01/00392	:	
Int. Filing Date: 26 September 2001	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: MRKS/0139	:	
For: ARRANGEMENT IN A GRIPPER	:	
MECHANISM FOR A FREE PIPE/RODLIKE	:	
END PORTION OF A DOWNHOLE TOOL	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. 1.137(b)" filed 31 August 2004.

BACKGROUND

On 26 September 2001, applicant filed international application PCT/NO01/00392. A copy of the international application was communicated to the USPTO from the International Bureau on 03 April 2003. The thirty-month period for paying the basic national fee in the United States expired on 26 March 2004.

International application PCT/NO01/00392 became abandoned as to the United States for failure to timely pay the basic national fee.

On 31 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 basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in entering the National Phase of prosecution in the United States based on International Patent Application No. PCT/NO01/00392 originally due on March 26, 2004, 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.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

05 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

JOYCE VON NATZMER
4615 NORTH PARK AVENUE, SUITE 919
CHEVY CHASE, MD 20815

In re Application of FLAMMER et al	:	
U.S. Application No.: 10/506,138	:	
PCT Application No.: PCT/IB02/00648	:	DECISION
Int. Filing Date: 01 March 2002	:	
Priority Date Claimed: (none)	:	
Attorney Docket No.: 3024-103	:	
For: DIAGNOSTIC METHOD FOR GLAUCOMA	:	

This is in response to applicant's "Petition Under 37 CFR §1.497" filed 15 September 2004.

BACKGROUND

On 01 March 2002, applicant filed international application PCT/IB02/00648. A copy of the international application was communicated to the USPTO from the International Bureau on 12 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 01 September 2004.

On 01 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been

executed by any of the original named inventors, the written consent of the assignee (see ' 3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, the petition states that no assignment has been executed by any of the original named inventors.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 01 March 2002, and a date under 35 U.S.C. 371(c) of 01 September 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

04 MAY 2005

AS

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thomas M. Galgano, Esq.
GALGANO & BURKE
300 Rabro Drive, Suite 135
Hauppauge, New York 11788

In re Application of	:	DECISION ON
Green et al	:	
PCT No.: PCT/GB03/00879	:	
Application No: 10/506,141	:	PETITION UNDER
Int. Filing Date: 04 March 2003	:	
Priority Date: 04 March 2002	:	
Attorney's Docket No.: 1708-20	:	37 CFR 1.47(a)
For: ALIGNMENT SYSTEM	:	

This is in response to the "PETITION UNDER 37 CFR 1.47(a) TO ACCEPT THE APPLICATION WITHOUT THE SIGNATURE OF A JOINT INVENTOR" filed on 23 March 2005. The petition fee of $130.00 has been paid by check.

BACKGROUND

On 04 March 2003, applicants filed international application PCT/GB03/00879, which claimed priority to an earlier application filed 04 March 2002. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 12 September 2003.

On 27 August 2004, applicants filed in the United States Patent & Trademark Office 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. No executed oath or declaration was submitted at such time.

On 25 January 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 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. A $65.00 surcharge for providing the late oath or declaration later than 30 months from the priority date. These items must be submitted within two months from the date of this Notice or by 32 months from the priority of date the application, in order to avoid abandonment of the national stage application.

On 23 March 2005, petitioner filed the present petition, a declaration in support of filing on behalf of nonsigning inventor Roger Nixon accompanied, inter alia, an executed Declaration without the signatures of Mr. Nixon.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal,

that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1) – (3) of 37 CFR 1.47(a) but not requirement (4).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the averments of Mr. Andrew Teasdale are sufficient to support a finding that the nonsigning inventor, Mr. Nixon, refuses to sign because a complete copy of the application, combined declaration/power of attorney was mailed to Mr. Nixon on March 8, 2005 requesting that he review the application and sign the combined Declaration/Power of Attorney. Mr. Nixon responded on March 8, 2003 indicating that he does not feel able to sign the documents sent to him.

Regarding requirement 3, petitioner has provided a statement of the last known address of the missing inventor.

14 Woottens Close
Comberton, Cambridge
Cambridgeshire CB3 &DA, Great Britian

Regarding requirement 4, the declaration provided is defective because the declaration signed by inventor Mr. Edward GREEEN does not state his citizenship as required under 37 CFR 1.63(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)."

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 2005

#7

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue N.W.
Washington D.C. 20004

In re Application of	:	
MANKEE et al	:	DECISION ON RENEWED
PCT No.: PCT/GB02/00221	:	
Application No: 10/479,101	:	PETITION UNDER
Int. Filing Date: 17 January 2002	:	
Priority Date: 26 January 2001	:	37 CFR 1.47(a)
Attorney's Docket No.: 056222-5038	:	
For: NOVEL FRAGRANCE COMPOUNDS	:	

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 09 June 2005.

BACKGROUND

In a decision from this Office on 04 May 2004, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that petitioner had not provided a proper declaration because the declaration did not state the citizenship of Mr. Green.

On 09 June 2005, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 09 June 2005 since the declaration now submitted identifies Mr. Green citizenship as British.

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 09 June 2005 still does not satisfied requirement 4 under 37 CFR 1.47(a) since an improper composite declaration has been submitted. The declaration filed on 09 June 2005 is defective since it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising a page listing the name of only one inventor, which is incomplete since each set must be complete by having the correct number of pages and listing all the inventors. In this case the declaration only contains the name of one of the six inventors, Mr. Green, and does not have the names of other inventors to make it complete a complete declaration.

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).

Thus applicants have not satisfied 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 "Second 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

01 JUL 2005

#7

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thomas M. Galgano, Esq.
GALGANO & BURKE
300 Rabro Drive, Suite 135
Hauppauge, New York 11788

In re Application of	:	DECISION ON RENEWED
Green et al	:	
PCT No.: PCT/GB03/00879	:	
Application No: 10/506,141	:	PETITION UNDER
Int. Filing Date: 04 March 2003	:	
Priority Date: 04 March 2002	:	
Attorney's Docket No.: 1708-20	:	37 CFR 1.47(a)
For: ALIGNMENT SYSTEM	:	

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 09 June 2005.

BACKGROUND

In a decision from this Office on 04 May 2004, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that petitioner had not provided a proper declaration because the declaration did not state the citizenship of Mr. Green.

On 09 June 2005, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 09 June 2005 since the declaration now submitted identifies Mr. Green citizenship as British.

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 09 June 2005 still does not satisfied requirement 4 under 37 C.F.R. §1.47(a) since an improper composite declaration has been submitted. The declaration filed on 09 June 2005 is defective since it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising a page listing the name of only one inventor, which is incomplete since each set must be complete by having the correct number of pages and listing all the inventors. In this case the declaration only contains the name of one of the six inventors, Mr. Green, and does not have the names of other inventors to make it a complete declaration.

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).

Thus applicants have not satisfied 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 "Second 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

31 AUG 2005

#9

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thomas M. Galgano, Esq.
GALGANO & BURKE
300 Rabro Drive, Suite 135
Hauppauge, New York 11788

In re Application of Green et al PCT No.: PCT/GB03/00879 Application No: 10/506,141 Int. Filing Date: 04 March 2003 Priority Date: 04 March 2002 Attorney's Docket No.: 1708-20 For: ALIGNMENT SYSTEM	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)

This is in response to the "SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 22 August 2005.

BACKGROUND

In a decision from this Office on 01 July 2005, the renewed petition filed on 09 June 2005 under 37 CFR 1.47(a) was dismissed. The decision stated that petitioner had not provided a proper declaration.

On 22 August 2005, petitioner submitted a "Second Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 01 July 2005 since the declaration now submitted identifies the co-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 22 August 2005 has satisfied requirement 4 under 37 CFR 1.47(a) since a proper declaration has been submitted.

Thus satisfying all 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 continue processing. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **22 August 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) 273-0459

31 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

Roger Nixon
14 Woottens Close
Comberton, Cambridge
Cambridgeshire CB3 &DA,
Great Britian

In re Application of	:	DECISION ON
Green et al	:	
PCT No.: PCT/GB03/00879	:	
Application No: 10/506,141	:	PETITION UNDER
Int. Filing Date: 04 March 2003	:	
Priority Date: 04 March 2002	:	
Attorney's Docket No.: 1708-20	:	37 CFR 1.47(a)
For: ALIGNMENT SYSTEM	:	

Dear Mr. Nixon:

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

Thomas M. Galgano, Esq.
GALGANO & BURKE
300 Rabro Drive, Suite 135
Hauppauge, New York 11788

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

COPY MAILED
MAY 10 2006
OFFICE OF PETITIONS

Applicant: Stoddart
Appl. No.: 10/506,158
International Filing Date: February 27, 2003
Title: METHOD AND APPARATUS FOR DETERMINING CEREBRAL OXYGEN SATURATION
Attorney Docket No.: NEU01 P301B
Pub. No.: US 2005/0119542 A1
Pub. Date: June 2, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on July 29, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in claim 12, as "examination light pulse" has been misprinted as "examination light has been pulse" and in claim 13 as "density of hemoglobin molecules (α) to blood density" misprinted as "density of hemoglobin molecules (a) to blood density."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor with respect to claim 12, as "examination light pulse" has been misprinted as "examination light has been pulse" and claim 13 as "density of hemoglobin molecules (α) to blood density" misprinted as "density of hemoglobin molecules (a) to blood density" are Office errors but the mistakes are not a material errors under 37 CFR 1.221(b). The mistakes are typographical, which does not affect the understanding of the application. The

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

JAN 12 2009

In re Application of	:	
NAKADAI, KAZUHIRO et al.	:	
Application No.: 10/506,167	:	DECISION ON
Filing or 371(c) Date: 02/09/06	:	PETITION
Attorney Docket Number: 042737	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed December 4, 2008.

This is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed June 4, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

11 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

James R. Hakomaki
Moore, Hansen & Sumner
225 South Sixth Street, Suite 4850
Minneapolis, MN 55402-4612

In re Application of Price, Raymond R. Application No.: 10/506,172 PCT No.: PCT/US01/43875 Int. Filing Date: 14 November 2001 Priority Date: None Attorney Docket No.: P30-005-02-US For: METHOD AND APPARATUS FOR FORMING A BLOCK HAVING A TEXTURED SURFACE	: : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the 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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul Grandinetti
Levy & Grandinetti
1725 K Street N.W.
Suite 408
Washington, DC 20006-1419

COPY MAILED

APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Huib Maat	:	
Application No. 10/506,193	:	DECISION ON PETITION
Filed: July 5, 2005	:	TO WITHDRAW
Attorney Docket No. W&K003US	:	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 9, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul Grandinetti on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Huib Maat at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. Huib Maat**
Regional Development Centre
Dundalk Institute of Technology
Dublin Road
Dundalk, County Louth
Ireland

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/506,193	07/05/2005	Huib Maat	W&K003US

CONFIRMATION NO. 5324

POWER OF ATTORNEY NOTICE

OC000000029381270

Paul Grandinetti
Levy & Grandinetti
1725 K Street N W
Suite 408
Washington, DC 20006-1419

Date Mailed: 04/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/mreason/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Masakatsu Endo	: DECISION ON REQUEST FOR
Patent Number	: 7599082	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,198	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **807** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/17/2010

Applicant : Masakatsu Endo
Patent Number : 7599082
Issue Date : 10/06/2009
Application No : 10/506,198
Filed : 09/01/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **878** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J R DESHMUKH
458 CHERRY HILL ROAD
PRINCETON, NJ 08540

MAILED

MAY 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Vittorio DE NORA, et *al.*	:	
Application No. 10/506,201	:	DECISION ON PETITION
Filed: August 31, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MOLO665	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 19, 2010, 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 February 6, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 6, 2007. Accordingly, the date of abandonment of this application is February 7, 2008.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Office of Data Management for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED
MAR 17 2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Patent No. 7,562,018	:	DECISION ON REQUEST
Kamai, et al.	:	FOR
Issued: July 14, 2009	:	RECONSIDERATION OF
Application No. 10/506,203	:	PATENT TERM ADJUSTMENT
Filed: August 31, 2004	:	and
Docket No. 5077-000223/NP	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 18, 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 sixty-nine (869) 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 sixty-nine (869) 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 September 1, 2007 and ends on May 22, 2008, the day before the RCE was filed, and is 265 (not 266) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 868, not 869 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 **eight hundred sixty-eight (868)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,562,018 B2

DATED : July 14, 2009

INVENTOR(S) : Takahiro Kamai, 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 (603) days

Delete the phrase "by 603 days" and insert – by 868 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 09 2010

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of :
Joseph A. Fuselier :
Application No. 10/506,223 : ON PETITION
Filed: July 13, 2005 :
Attorney Docket No. 07005/007002

This is a decision on the petition, filed April 7, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 24, 2009 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 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

OCT 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Atsushi Kudo	:	
Application No. 10/506,247	:	DECISION GRANTING PETITION
Filed: September 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 258242US90PCT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Akihiro Yamazaki appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

---

[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.*

This application is being referred to Technology Center AU 1797 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

0 9 JUL 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of	:	
OGINO et al.	:	DECISION
Application No.: 10/506,259	:	
PCT No.: PCT/JP2003/016454	:	
Int. Filing Date: 22 December 2003	:	
Priority Date: 06 January 2003	:	
Attorney's Docket No.: None	:	
For: AUTHENTICATION SYSTEM,	:	
AUTHENTICATION SERVER, AUTHENTICATING	:	
METHOD, AUTHENTICATING . . .	:	

This is a decision in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 16 February 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 22 December 2003, applicant filed international application PCT/JP2003/016454, which claimed a priority date of 06 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 22 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 July 2005.

On 31 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.

On 11 April 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 a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 07 November 2005, applicants submitted a petition/fee for a five month extension of time as well as a "REQUEST FOR CONTINUATION APPLICATION UNDER 37 CFR 1.53(b) IN RESPONSE TO A NOTIFICATION OF MISSING REQUIREMENTS", which was accompanied by, *inter alia*, a copy of the prior application as originally filed and a preliminary amendment.

On 20 March 2006, applicants filed an Information Disclosure Statement (IDS).

On 14 April 2006, applicants filed a second preliminary amendment.

On 16 February 2007, applicants filed a submission which has properly been treated as a petition under 37 CFR 1.181. The submission was accompanied by a declaration of inventors.

On 25 June 2007, the DO/EO/US mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) and FILING RECEIPT indicating a 35 U.S.C. 371 date of 16 February 2007.

DISCUSSION

The petition requests that the application papers filed 07 November 2005 be assigned an application number and filing date of 07 November 2005.

The application papers filed 07 November 2005 were placed in the file for application number 10/506,259. However, these application papers should have been used to create a new application under 35 U.S.C. 111(a). Accordingly, a new application filed under 35 U.S.C. 111(a) has been created and assigned application number **10/536,114**. The application papers filed 07 November 2005 have been placed in application number **10/536,114**.

The IDS filed 20 March 2006, the preliminary amendment filed 14 April 2006, and the declaration filed 16 February 2007 were also placed in the file for application number 10/506,259. These papers have also been placed in application number **10/536,114**.

The NOTICE OF ACCEPTANCE and FILING RECEIPT mailed 25 June 2007 are hereby VACATED.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTICE OF ACCEPTANCE and FILING RECEIPT mailed 25 June 2007 are hereby VACATED.

For the reasons set forth above, the application papers filed 07 November 2005, the IDS filed 20 March 2006, the preliminary amendment filed 14 April 2006, and the declaration filed 16 February 2007 have been placed in the file of application number **10/536,114**.

Applicant should use application number **10/536,114** in all future communications with the Patent and Trademark Office in regards to the continuation of application number 10/506,259.

This application will be forwarded to the Office of Initial Patent Examining for processing as an application under 35 U.S.C. 111(a) having a filing date of **07 November 2005**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

COPY MAILED

JUN 2 6 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sayers :
Application No. 10/506,275 :
Filed: August 31, 2004 :
Attorney Docket No. GB020013 :
For: METHOD TO REDUCE POWER CONSUMPTION IN A RADIO COMMUNICATION SYSTEM AND APPARATUS THEREFOR

This is a decision on the petition, filed January 30, 2007 (certificate of mailing date January 25, 2007), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within an extendable three (3) month period from the mail date of the June 12, 2006 non-final Office action. No extensions of time or reply being filed, the application became abandoned on September 13, 2006. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicant has submitted an amendment in reply to the June 12, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 12, 2006 non-final Office action, and the petition fee of $1,500.00.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office. A courtesy copy will be mailed to the address listed on the petition. All future correspondence will be mailed solely to the address of record, until appropriate change of correspondence address documents are filed.

After the mailing of this decision the application will be returned to Technology Center AU 2618 for consideration of the amendment filed on January 30, 2007 (certificate of mailing date January 25, 2007).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: RAYMOND J. WERNER
2056 NW ALOCLEK DR. #314
HILLSBORO OR 971224

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

NOV 2 5 2008

OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
Anthony David Sayers	:	
Application No. 10/506,275	:	DECISION ON PETITION
Filed: August 31, 2004	:	
Attorney Docket No. GB 020013	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of September 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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 patent. However, in accordance with 37CFR 1.34(a), 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 in whose behalf he acts. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney or authorization of agent must be submitted.

A courtesy copy of this petition will be mailed to the address on the petition.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Thorne & Halajian, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

William H. Dippert, Esq.
Reed & Smith, LLP
599 Lexington Ave, 29th Floor
New York, NY 10022-7650

SEP 15 2005

In re Application of:	:	
Herskowits et al.	:	
Serial No.: 10/506,279	:	DECISION ON REQUEST TO WITHDRAW
Filed: August 31, 2004	:	FROM RECORD
Attorney Docket No.: **306/04155**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 25, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Maier Fenster, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.
All future communications from the Office will be directed Aeils Photonics (Israel) Ltd., at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Aeils Photonics (Israel) Ltd.
3A Jabotinski Street
52520 Ramat-Gan
Israel

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul Grandinetti
Levy & Grandinetti
1725 K Street N.W.
Suite 408
Washington D.C. 20006-1419

COPY MAILED

MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Huib Maat	:	
Application No. 10/506,292	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. W&K004US	:	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 7, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Paul Grandinetti on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Huib Maat at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed August 7, 2007.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Huib Maat**
Eaira LTD.
Regional Development Centre
Dundalk Institute of Technology
Dubin Road
Dundalk, County Louth
Ireland

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/506,292	03/18/2005	Huib Maat	W&K004US

CONFIRMATION NO. 3205

POWER OF ATTORNEY NOTICE

OC000000028802318

Paul Grandinetti
Levy & Grandinetti
1725 K Street N W
Suite 408
Washington, DC 20006-1419

Date Mailed: 03/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 02, 2008

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/506300 Patent No.: 7229702 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Column 37, Structure 72 a-d - DENIED. The proposed new structure also has (a different) typographical error. Applicant has not included the bracket around the central 9,9'-dimethyl ~~fluorene~~ fluorene to indicate 3-6 repeat units.

MILTON I. CANO
SUPERVISORY PATENT EXAMINER

1794
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date April 16, 2010

Patent No. :7659112
Ser. No. :10/056327
Inventor(s) : Shingo HIRAMATSU et al.
Issued :February 9, 2010
Title :PROCESS FOR PRODUCING PHYSIOLOGICALLY ACTIVE PROTEIN USING
:GENERALLY MODIFIED SILKWORM

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 concerning ***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. 17(i) (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
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

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.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1574

Susan W. Gorman
BIRCH, STEWARDT, KOLASH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O .BOX 747
Falls Church, VA 22040-0747

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,659,112	:	
Issue Date: February 9, 2010	:	
Application No. 10/506,327	:	DECISION ON PETITION
Filed: September 2, 2004	:	
Attorney Docket No. 0210-0190PUS1	:	

This is a decision on the Request Under 37 C.F.R. §3.81 and 1.323 To Add Assignee's Name, filed May 27, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR 3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the omission of the second assignee's name on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the petition.

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.

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. 7,659,112.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Drive
Suite 2600
San Diego, California 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

09 JAN 2006

Corporate Patent Office
Phillips Electronics North America Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
VAN DER SHAAR et al.	:	
U.S. Application no.: 10/506,342	:	
PCT No.: PCT/IB03/00789	:	
Int. Filing Date: 04 March 2003	:	DECISION
Priority Date: 05 March 2002	:	
Attorney Docket No.: NL021301	:	
For: METHOD AND SYSTEM FOR ENCODING FRACTIONAL BITPLANES		

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 25 July 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending nonprovisional applications were filed on March 05, 2002 and December 17, 2002, within twelve months of the filing date of the prior-filed provisional

application, Application No. 10/506,342, which was filed on 04 March 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

---

[1] *Note* 37 CFR 1.121

By hand: Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Anthony Smith at 571-272-3298.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 01 2009

OFFICE OF PETITIONS

Blakely Sokoloff Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

In re Application of :
Jason Brett Harrop et al. :
Application No. 10/506,357 : ON PETITION
Filed: April 15, 2005 :
Attorney Docket No. 17480P029 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2009, 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 October 27, 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 41.37(b). As no claim was allowed, the application became abandoned on December 28, 2008. See MPEP 1215.04. It should be noted that the reply received on March 23, 2009 along with a three month extension of time was not a proper reply to a Notice of Appeal.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Technology Center AU 2178 for appropriate action in the normal course of business for processing of the Appeal Brief received July 16, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

23 NOV 20

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of CALLENS, Catherine et al. Application No.: 10/506,360 PCT No.: PCT/FR03/00556 Int. Filing Date: 19 February 2003 Priority Date: 01 March 2002 Docket No.: 12928/10019 For: METHOD FOR DESIGNING ... PROGRAM AND PRODUCT	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 12 November 2004 is **GRANTED**.

Applicants' statement that the delay was unintentional is construed to mean "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). If this understanding is not correct, applicants must notify the office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED

NOV 16 2007

OFFICE OF PETITIONS

In re Application of Gregory Thomas Flitton Application No. 10/506,370 Filed: February 11, 2005 Attorney Docket No. 040857/282241 Title: TESTING MOBILE TELEPHONE TERMINALS	DECISION ON PETITION UNDER 37 C.F.R. § 1.181(A)

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on September 19, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed January 16, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on April 17, 2007.

With the present petition, Petitioner has alleged that the mailing was not received, and has included a copy of the docket report.

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the mailing was not received, that he has searched the file jacket and the docket record, and he has included a copy of the latter.

Moreover, the electronic file has been reviewed, and it is clear that this communication was returned by the United States Postal Service on January 23, 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 the mailing was not received.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the final action of January 16, 2007, and will set a new period for response.

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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

08 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard L. Mayer
Kenyon & Kenyon
One Broadway
New York, New York 10004

In re Application of	:	
FLORES et al	:	
Application No.: 10/506,372	:	DECISION ON PETITION
PCT No.: PCT/DE03/00329	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 06 February 2003	:	
Priority Date: 01 March 2002	:	
Attorney Docket No.: 10191/3800	:	
For: DEVICE AND METHOD FOR EVALUATING AND ACHIEVING SAFETY IN SYSTEMS AND A CORRESPONDING COMPUTER PROGRAM		

The petition to revive under 37 CFR 1.137(b) filed 01 October 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 petition to revive and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FANELLI STRAIN & HAAG PLLC
1455 PENNSYLVANIA AVE., N.W., SUITE 400
WASHINGTON DC 20004

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,569,337
Issued: August 4, 2009
Application No. 10/506,381
Filed: September 2, 2004
Attorney Docket No. 093286-0112

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed October 2, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred forty (640) to one thousand two hundred forty-nine (1249) days.

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 4, 2009, the above-identified application matured into US Patent No. 7,569,337 with a patent term adjustment of 640 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).

The Office acknowledges submission of the authorization of the $200.00 fee set forth in 37 CFR 1.18(e).

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 in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 1249 days, which includes 698 days due to exceeding three year pendency.

The 698-day period is calculated based on the national stage having been commenced under 35 U.S.C. 371(f) on September 6, 2004, and the patent having been issued on August 4une 2, 2009, three years and 698 days later. Patentees assert that in addition

to this 698-day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a)(1) and (a)(2) of 727 (638 + 89) days.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (698 days) and the period of Examination Delay (727 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that 89 days of the Three Year Delay period overlaps with the examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1249 days, which includes the period of Three Year Delay (698 days) and the period of Examination Delay (727 days), reduced by the period of overlap (89 days). As such, patentees assert entitlement to a patent term adjustment of 1249 days (698 + 638 reduced by 89 overlap – 87(applicant delay)).

The Office contends that all 698 days for over three year pendency overlap with the 727 days accorded for Office delay during the pendency of the application, and thus, no additional days were entered for over three year 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, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the

period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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.

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the national stage commenced, September 6, 2004, to the date the patent issued on August 4, 2009. Prior to the issuance of the patent, 727

days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. 698 days of Office delay accrued for failure to issue the patent within three years of the commencement of the national stage. All 698 days for Office delay in issuing the patent overlap with the 727 days of Office delay. During that time, the issuance of the patent was delayed by 727 days, not 727 + 698 days. The Office experienced 727 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames.

Nonetheless, given the initial 698 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 698 days. The Office did not delay 727 days and then an additional 698 days. Entry of both periods is not warranted. Thus, the greater period of 727 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Fanelli Strain & Haag PLLC
1455 Pennsylvania Ave., N.W., suite 400
Washington, DC 20004

Mail Date: 04/21/2010

Applicant	: Yves Auberson	: DECISION ON REQUEST FOR
Patent Number	: 7569337	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,381	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1248** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

09 AUG 2006

Sheridan Ross P.C.
1560 Broadway, Suite 1200
Denver, CO 80202-5141

In re Application of
BURSAUX et al.
Application No.: 10/506,392
PCT No.: PCT/GB03/00932
Int. Filing Date: 06 March 2003
Priority Date: 12 March 2002
Atty. Docket No.: 7096SO-27
For: METHOD AND APPARATUS FOR DEPLOYING ARTICLES IN DEEP WATER

DECISION ON PETITION

This decision is in response to applicant's "37 CFR 1.182 Petition for Refund of a Three Month Extension of Time Fee Paid under 37 CFR 1.136" filed in the United States Patent and Trademark Office on 09 August 2005, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 06 March 2003, applicant filed international application no. PCT/GB03/00932 which claimed a priority date of 12 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2003. 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 12 September 2004.

On 01 September 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; a copy of the international application; and a preliminary amendment.

On 14 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 14 June 2005, applicants filed a declaration of inventors; a $130 surcharge under 37 CFR 1.492(h); and a petition fee for a three-month extension of time.

On 09 August 2005, applicant filed the present "Petition for Refund of a Three Month Extension of Time Fee Paid under 37 CFR 1.136."

On 12 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 14 June 2005.

DISCUSSION

A. Petition under 37 CFR 1.181

Petitioner states in their present petition that the Notification of Missing Requirements was not received by mail. This statement is being treated as a Petition under 37 CFR 1.181. With regards to applicants' request, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Concerning item (2) above, applicants have not provided a statement attesting that a search of the file jacket and docket records indicates that the papers were not received.

As to item (3), applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. Accordingly, applicants are required to provide docket records for 14 March 2005, indicating all applications for which a response was due on said date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

B. Request for Refund

Applicant's request for refund under 37 CFR 1.26 is being held in abeyance pending applicants' response to this decision.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The request for refund under 37 CFR 1.26 is held in abeyance.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under

37 CFR 1.181 and Request for Refund." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON, DC 20036-3001

COPY MAILED

JUN 2 1 2007

OFFICE OF PETITIONS

In re Application of

Chilingarian, et al. :

Application No. 10/506,409

: DECISION ON PETITION

Filed: February 15, 2006

:

Attorney Docket No. 38509-0011US1

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 29, 2006, 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 1, 2006.

The continuing application 11/754,950, filed May 29, 2007, is noted. The subject application is revived for continuity purposes only and is again abandoned in favor of the continuing application.

The application is being forwarded to Technology Center 1600, GAU 1631 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

28 FEB 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

23932
JENKINS & GILCHRIST, P.C.
1455 Ross Avenue, Suite 3200
Dallas, TX 75202

In re Application of :
SVENSSON, Jan-Olof *et al* :
U.S. Application No.: 10/506,415 :
PCT No.: PCT/EP03/01548 : **DECISION**
Int. Filing Date: 14 February 2003 :
Priority Date: 04 March 2002 :
Attorney's Docket No.: 47253-00041USPX :
For: A BATTERY PROTECTION CIRCUIT :

This is a decision on the papers filed on 09 December 2004 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 17 November 2004, applicants purportedly filed an executed declaration.

On 26 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905)

On 09 December 2004, applicants filed a 'Response to Notification of Missing Requirements Under 35 U.S.C. 371" which was accompanied by, *inter alia,* a copy of documents purportedly filed 17 November 2004 and a date-stamped postcard receipt for the aforementioned documents.

On 05 January 2005, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements of 09 December 2004.

DISCUSSION

Applicants claim that an executed declaration and a surcharge fee were submitted on 17 November 2004 in the above-captioned application. A review of the file shows that there is no record of a declaration received until 09 December 2004. However, USPTO financial records reveal that the surcharge fee of $130.00 was paid on 17 November 2004.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed

thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped postcard receipt for the documents submitted 17 November 2004. The postcard receipt records that among the papers filed included a "Copy of Executed Declaration and Check in the Amount of $130.00." The postcard receipt is stamped "DT07 Rec'd PCT/PTO 17 NOV 2004" across its face. The title, applicant and attorney docket number were listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that a declaration was originally received in the above-captioned application on 17 November 2004.

DECISION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 05 January 2005 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including mailing a corrected Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) Indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements of 17 November 2004.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

27 SEP 2005

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

McGlew & Tuttle, P.C.
P.O. Box 327
Scarborough Station
Scarborough, NY 10510-0827

In re Application of	:	
Blum et al.	:	
Application No.: 10/506,416	:	DECISION
PCT No.: PCT/EP02/12668	:	
Int. Filing Date: 13 November 2002	:	ON
Priority Date: 16 November 2001	:	
Attorney Docket No.: 71396 PCT	:	PETITION
For: Method Of Producing Alloy Ingots	:	

This is a decision on the "Petition Under 37 CFR 1.10(E) and/or 37 CFR 1.181" filed on 31 August 2004.

BACKGROUND

This international application was filed on 13 November 2002, designated the U.S., and claimed a priority date of 16 November 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 22 May 2003. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 16 May 2004.

DISCUSSION

Counsel's petition requests "that the proper steps be taken at this time to ensure that the above-identified application is afforded the National Phase entry date of May 13, 2004." In support of this request, counsel points to evidence accompanying the petition, including "a true and accurate copy of the PCT Application for attorney docket number 71396 as filed on May 13, 2004. Further enclosed is a copy of the return-receipt postcard, a copy of Applicant's attorney's Express Mail Log dated May 13, 2004 and a copy of the Express Mail Receipt dated May 13, 2004." The return postcard receipt accompanying the petition is stamped as "Rec'd PCT/PTO 13 MAY 2004." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, the basic national fee and the copies of the English translation of the international application, the Information Disclosure Statement, the preliminary amendment, and the International Search Report and 12 references itemized on the return postcard receipt and accompanying the instant petition are being accepted as copies of the respective papers filed on 13 May 2004.

It is noted that the English translation of the international application is defective in that claim 14 in the translation is dependent upon "claims 1 to 13," whereas claim 14 in the published international application appears to be dependent upon any one of claims 1-3.

CONCLUSION

The petition is **GRANTED** to the extent described above.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b), a proper English translation of the international application, a processing fee under 37 CFR 1.492(i) and a surcharge under 37 CFR 1.492(h).

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,418	03/30/2005	Ya-Jane Wang	117682-011	8357

24573 7590 09/09/2009
K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER
HEINCER, LIAM J

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
09/09/2009	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.

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:

In re Application of Wang et al.
Serial No.: 10/506,418
Filed: March 30, 2005

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: BIODEGRADABLE MATERIALS FROM STARCH-GRAFTED POLYMERS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed May 11, 2009 to correct inventorship under 37 CFR 1.48(a) by adding the name of Wanjun Liu to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Mark Eashoo
Supervisory Patent Examiner
Art Unit 1796
Technology Center 1700

K & L GATES, LLP
P.O. Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BIB DATA SHEET

CONFIRMATION NO. 8357

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/506,418	03/30/2005 RULE	524	1796	117682-011

APPLICANTS

Ya-Jane Wang, Fayetteville, AR;
Zhenhua Sun, Fayetteville, AR; LH
Wanjun Liu, Okemos, MI;

**** CONTINUING DATA ****************************

This application is a 371 of PCT/US03/05661 02/26/2003 LH
which claims benefit of 60/360,324 02/28/2002

**** FOREIGN APPLICATIONS *****************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **

Foreign Priority claimed	35 USC 119(a-d) conditions met	Verified and Acknowledged	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ Yes ☑ No	☐ Yes ☑ No	☐ Met after Allowance Initials	AR	4	18	3

ADDRESS

K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690
UNITED STATES

TITLE

BIODEGRADABLE MATERIALS FROM STARCH-GRAFTED POLYMERS

FILING FEE RECEIVED		
525	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/13/08

TO SPE OF : ART UNIT 3651 Crawford Gene (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/506460 Patent No.: 7415320

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: _____

GENE CRAWFORD
SUPERVISORY PATENT EXAMINER

SPE

3651
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

Paper No.

MAILED

JUN 24 2010

OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,592,337	:	DECISION ON REQUEST
Chen et al.	:	FOR
Issue Date: September 22, 2009	:	RECONSIDERATION OF
Application No. 10/506,479	:	PATENT TERM ADJUSTMENT
Filed: September 1, 2004	:	and
Atty Docket No. DI-ARYL	:	NOTICE OF INTENT TO ISSUE
SUBSTITUTED TETRAZOLE MODULATORS	:	CERTIFICATE OF CORRECTION
OF METABOTROPIC GLUTAMATE	:	
RECEPTOR-5	:	

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 one thousand, four hundred and eight (1408) 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 and six (1406) 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.

Petitioner's assertion that the commencement date is September 7, 2004 is inaccurate.[1] This international application has a priority date of March 12, 2002 and the thirty-month anniversary of this date is September 12, 2004, which fell on Sunday. As such, the commencement date is the next business day: September

[1] Petition, page 3.

13, 2004. It is noted that early national stage examination was not requested. See the transmittal letter that was included on filing, box 3.

As such, the previously-accorded patent term adjustment of 786 days will be increased by 620 days. The 620 days constitutes the period of "B delay" (740 days: September 14, 2007 to September 22, 2009) reduced by 120 days of overlap (the days beginning on September 14, 2007 to January 9, 2008 and June 12, 2008 to June 13, 2008 overlap with the B delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 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 **one thousand, four hundred and six (1406) 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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,337 B2

DATED : **September 22, 2009** **DRAFT**

INVENTOR(S) : Chen 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 786 days

Delete the phrase "by 786 days" and insert – by 1406 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael S Gzybowski
Butzel Long
Suite 300
350 South Main Street
Ann Arbor MI 48104

RECEIVED

DEC 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Kazuhisa Senda, et. al.	:	
Application No. 10/506,487	:	DECISION ON PETITION
Filed: September 2, 2004	:	
Attorney Docket No. 121036-0070	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, February 19, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on May 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Oliver Okrongli
Suite M3202
1903 60th Place
Bradenton FL 34203

COPY MAILED

SEP 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Oliver Okrongli	:	ON APPLICATION
Application No. 10/506,500	:	FOR
Filed: September 3, 2004	:	PATENT TERM ADJUSTMENT
Title: METHOD, SOFTWARE	:	
PRODUCT AND SYSTEM FOR	:	
CARRYING OUT UNIVERAL,	:	
COMPUTER-AIDED INFORMATION	:	
PROCESSING	:	

This is a decision on the "Application for Patent Term Adjustment" filed June 11, 2008. In effect, applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty-three (283) days to three hundred seventy-five (375) days.

The application for patent term adjustment is **DISMISSED**.

On March 14, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 283 days. The instant application for patent term adjustment was timely filed.[1] Applicant disputes the reduction of 92 days entered for the filing of the request for continued examination (RCE) on November 2, 2007. Applicant argues that the calculation does not take into account applicant's timely after-final reply filed June 29, 2007.

The record indicates that the patent issuing from this application is not subject to a terminal disclaimer.

[1] PALM records indicate that the issue fee was also paid on June 11, 2008.

The calculation has been reconsidered, and found to be correct. In accordance with 37 CFR 1.704(b), the adjustment was properly reduced 92 days in connection with the request for continued examination (RCE) filed November 2, 2007. As the amendment filed June 29, 2007, was not in compliance with § 1.113(c), the period for reply to the final rejection mailed May 2, 2007, continued to run. Accordingly, the reduction began August 3, 2007, the day after the date that is three months after the date of mailing of the final rejection, and ended November 2, 2007, the date the RCE was filed. (It is noted that there has been no decision on the petition to withdraw the finality of the Office action filed December 21, 2007[2]).

The initial determination of patent term adjustment at the time of the mailing of the notice of allowance of two hundred eighty-three (383) days is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The fee will not be refunded. 35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

---

[2] The undersigned has referred this case to Technology Center AU 2192 for action on the petition filed December 21, 2007. Applicant should telephone Technology Center AU 571-272-2100 and ask to speak with a SPRE with respect to the status of the petition filed December 21, 2007.

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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of

GAJEK, Rayszard
Application No. 10/506,517
Filed: September 02, 2004
Attorney Docket No. **100959.0004US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 16, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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 acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/17/09

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/501658 Patent No.: 7414416

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Drawings

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

E Yang

Certificates of Correction Branch

703-756-1814 _____

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: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron Williams — SPE

2856 — 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

FOLEY AND LARDNER LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

MAILED

MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
David Michael Evans	:	
Application No. 10/506,535	:	DECISION ON PETITION
Filed: July 5, 2005	:	TO WITHDRAW
Attorney Docket No. 040283-0242	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 26, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Courtenay C. Brinckerhoff on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David Michael Evans at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **David Michael Evans**
114 Adelaide Road
St. Denys
Southhampton, SO17 2HX
United Kingdom

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/506,535	07/05/2005	David Michael Evans	040283-0242

CONFIRMATION NO. 1213

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000036105268

Date Mailed: 05/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/26/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: David Michael Evans	: DECISION ON REQUEST FOR
Patent Number	: 7649000	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **952** 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.

15 FEB 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 Duke Street
Alexandria, VA 22314

In re Application of:	:	
MASHIMA, Hiroshi, et al.	:	
U.S. Application No.: 10/506,544	:	DECISION CORRECTING
PCT No.: PCT/JP03/02986	:	INVENTORS' NAMES
International Filing Date: 13 March 2003	:	
Priority Date: 14 March 2002	:	
Attorney's Docket No.: 258285US2PCT	:	
For: HIGH-FREQUENCY POWER SUPPLY	:	
STRUCTURE AND PLASMA CVD DEVICE	:	
USING THE SAME	:	

This decision is issued in response to applicants' "Declaration of Tetsuro SHIGEMIZU" and "Declaration Of Tatsufumi AOI" filed 14 January 2005, treated herein as a request to correct the spellings of these inventors' names. No petition fee is required.

BACKGROUND

On 13 March 2003, applicants filed international application PCT/JP03/02986 which claimed a priority date of 14 March 2002 and which designated the United States. On 18 September 2003, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 14 September 2004.

On 03 September 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 06 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 an oath or declaration in compliance with 37 CFR 1.497 was required.

On 14 January 2005, applicants a response to the Notification Of Missing Requirements, considered herein. This response included an executed declaration and separate declarations from to of the inventors regarding errors in the spelling of their names.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. Here, applicants' 14 January 2005 submission states that the names of two of the inventors were listed incorrectly on the international application, due to errors in translation. Specifically, the inventor identified in the international application as Teterou SIGEMIZU states that his correct name is Tetsuro SHIGEMIZU (as set forth in the filed declaration), and the inventor identified in the international application as Tatushi AOI states that his correct name is Tatsufumi AOI (as set forth in the filed declaration). Based on these statements, the correct names of these inventors are accepted as Tetsuro SHIGEMIZU and Tatsufumi AOI, as set forth in the declaration.

CONCLUSION

Applicants' request to correct the inventors' names is **GRANTED**.

The correct names of the relevant inventors are accepted as Tetsuro SHIGEMIZU and Tatsufuni AOI, as set forth in the declaration filed 14 January 2005.

Based on the correction of the inventors' names, the declaration filed on 14 January 2005 is acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 January 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
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Susumu Kayama	: DECISION ON REQUEST FOR
Patent Number	: 7591991	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **99** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

2/27/08

FARRIS LAW, P.C.
5291 COLONY DRIVE NORTH
SAGINAW MI 48638

In re Application of: DURRANT
Appl. No.: 10/506,557
Filed: September 2, 2004
For: CORNER PROTECTORS FOR PICTURE FRAMES

: DECISION ON PETITION

This is a decision on the petition filed on December 14, 2007 by which petitioners request withdrawal or waiver of the Examiners requirement for a supplemental declaration. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Review of the application and of the claims shows that the examiner correctly noted use language which did not conform to the requirements of 37 CFR 1.63 in the declaration. However, as set forth in the January 22, 2008 memo (copy attached) declarations filed prior to June 1, 2008 for pending applications, the Office is hereby sua sponte waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with 37 CFR 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

PETITION GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications

Summary:

The United States Patent and Trademark Office (Office) will no longer accept as complying with 37 CFR 1.63(b)(3) an oath or declaration that does not acknowledge a duty to disclose information material to patentability as defined in 37 CFR 1.56. All oaths or declarations filed on or after June 1, 2008, will be required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3). This notice applies to oaths or declarations filed in all nonprovisional patent applications, including reissue applications.

Background:

Current 37 CFR 1.63 sets forth the requirements for an oath or declaration filed in a nonprovisional patent application. 37 CFR 1.63(b)(3) sets forth what the person making the oath or declaration must state when acknowledging the duty of disclosure. Specifically, 37 CFR 1.63(b)(3) requires persons making an oath or declaration to state that they acknowledge their duty to disclose to the Office all information known to the person to be "material to patentability as defined in § 1.56." This language is incorporated in: 37 CFR 1.153, which sets forth the requirements for an oath or declaration in a design application; 37 CFR 1.162, which sets forth the requirements for an oath or declaration in plant patent applications; and 37 CFR 1.175 which sets forth the requirements for an oath or declaration in a reissue application.

In 1992, the Office amended 37 CFR 1.63 to conform to amendments made in 37 CFR 1.56. See Duty of Disclosure, 57 FR 2021 (January 17, 1992) (final rule). The amendments to 37 CFR 1.63(b)(3) resulted in "material to patentability as defined in § 1.56" replacing "material to the examination of the application in accordance with § 1.56(a)." Despite this amendment to 37 CFR 1.63(b)(3), some applicants in their oaths or declarations continue to use "material to the examination of the application" in place of "material to patentability," and "in accordance with § 1.56(a)" in place of "as defined in § 1.56." In response to proper objections made during the examination of pending patent applications, practitioners have argued that the oaths and declarations executed by applicants with the outdated language in question are proper and meet the requirements set forth in 37 CFR 1.63 in view of Comment 38 and the accompanying Reply in the 1992 Final Rule. See Duty of Disclosure at 2027. Additionally, these practitioners have argued that the outdated language should be accepted because the Office has not routinely enforced strict compliance with current 37 CFR 1.63, as evidenced by the number of pending patent applications and issued patents containing oaths or declarations with the outdated "material to examination" and "in accordance with 37 CFR 1.56(a)," language.

Revised Procedure:

With this Notice, the Office is putting applicants and their representatives on notice that compliance with the express language of 37 CFR 1.63 will now be required. Additionally, to the extent the Reply to Comment 38 in the 1992 Final Rule authorized the continued use of the "material to examination" and "in accordance with 37 CFR 1.56(a)," language, this authorization it is hereby rescinded, and reliance on the Reply to Comments 38 will no longer be accepted. If an oath or declaration filed on or after June 1, 2008, does not include the express language set forth in 37 CFR 1.63(b)(3), the Office will object to the oath or declaration as failing to comply with 37 CFR 1.63. A supplemental oath or declaration pursuant to 37 CFR 1.67 will then be required.

For pending applications, the Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

For continuing applications filed under 37 CFR 1.53(b), other than continuation-in-part applications, the Office will accept an oath or declaration that contains the outdated language if the oath or declaration otherwise complies with 37 CFR 1.63, and either: (1) was filed prior to June 1, 2008; or (2) is being filed in a continuation or divisional application in which a claim for benefit under 35 U.S.C. 120 has been made to a prior-filed copending nonprovisional application, and the oath or declaration is a copy of the previously accepted oath or declaration that was filed prior to June 1, 2008.

For issued patents, the Office is hereby waiving *nunc pro tunc* the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. As stated above, the express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. Any supplemental oath or declaration filed for an issued patent may simply be placed in the patent application file without review or comment.

While not required, patentees and applicants are free to submit newly executed oaths or declarations with the language expressly set forth in current 37 CFR 1.63(b)(3), in accordance with 37 CFR 1.67.

Applicants are advised that, notwithstanding the waiver in the preceding paragraphs, an applicant who has not disclosed information that is material to patentability as defined in current 37 CFR 1.56, because it was believed that the information was not "material to examination," should disclose such information in order

to discharge the applicant's duty of disclosure as required by 37 CFR 1.56, and should file a supplemental oath or declaration acknowledging that duty of disclosure.

Questions about this notice may be directed to the Office of Patent Legal Administration at (571) 272-7701 or electronic mail message to PatentPractice@uspto.gov.

Date: 1/22/08

JON W. DUDAS
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,561	03/03/2005	Yuji Shishido	SON-2907	3094

7590 02/11/2008
RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER
KRAUSE, JUSTIN MITCHELL

ART UNIT	PAPER NUMBER
3682	

MAIL DATE	DELIVERY MODE
02/11/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/03/10

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10506563 Patent No.: 7273565

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Nadine Norton
SPE

1792
Art Unit

17 MAR 2006

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of
Ueda et al.
Application No.: 10/506,565
PCT No.: PCT/JP02/07892
Int. Filing Date: 02 August 2002
Priority Date: 05 March 2002
Attorney Docket No.: 05362.0038
For: Antenna Coil

DECISION

This is a decision on the "Renewed Submission Under 37 CFR 1.497(d)" filed on 18 November 2005.

DISCUSSION

In a decision mailed on 31 October 2005, the declaration filed on 05 August 2005 was not accepted under 37 CFR 1.497(d) because

> Regarding requirement (3), the "Consent of Assignee..." document included among the instant correspondence suggests that SUMIDA Corporation and DENSO Corporation each enjoy an assignment interest in this application, "as indicated by the attached copy of an assignment executed by the originally named inventors as well as the newly added inventor." The document is signed by individuals on behalf of both DENSO and SUMIDA, and states that "Each of the undersigned also states that he has the authority to sign this consent on behalf of the assignee." Review of the application file and of electronic USPTO records reveals that no assignment documents appear to be present, nor has counsel identified where such documentation may be found within the records of the USPTO (e.g., by reel and frame number). As such, requirement (3) has not been satisfied. Applicant is advised that 37 CFR 3.73 will change on 25 November 2005. *See* 70 Fed. Reg. 56128, Sept. 26, 2005.

The instant renewed submission is accompanied by an Assignment document executed in favor of Sumida Corporation and Denso Corporation by Hozumi Ueda, Tatsumi Nishino and Takahide Kitahara.

CONCLUSION

The declaration filed on 05 August 2005 is **ACCEPTED** under 37 CFR 1.497(d).

This application is being forwarded to the National Stage Processing Branch for continued processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **05 August 2005**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/26/2010

Applicant	: Charles Falinower	: DECISION ON REQUEST FOR
Patent Number	: 7651565	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/506,567	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1121** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Gonzalez et al.	:	
Application No. 10/506,582	:	ON PETITION
Filed: September 3, 2004	:	
Attorney Docket No. 10/506,582	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1791 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

29 SEP 2005

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Epstein, Drangel,
Bazerman & James, LLP
60 East 42nd Street, Suite 820
New York, NY 10165

In re Application of	:	
Cevik	:	
Application No. 10/506,586	:	DECISION ON
PCT No.: PCT/IB02/00615	:	
Int. Filing Date: 01 March 2002	:	PETITION UNDER
Priority Date: NONE	:	
Atty. Docket No.: 1861-100US	:	37 CFR 1.10(d)
For: A Method And An Apparatus	:	
For Automatic Ironing	:	

This is in response to the "Petition Under 37 CFR 1.181 To Obtain Correct Filing Date Under 37 CFR 1.10(d)" filed on 20 September 2005.

BACKGROUND

This international application was filed on 01 March 2002, claimed no earlier priority date, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 12 September 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 September 2004.

On 08 March 2005, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) was 02 September 2004.

DISCUSSION

Petitioner "hereby submits that the U.S. National Phase application was effectively filed on September 1, 2004. The application was filed via the United States Postal Service 'Express Mail' service, and was deposited directly with an employee in advance of the last regularly scheduled pick-up... However, the USPS employee omitted the 'date-in'." Petitioner requests "that the application be accorded a filing date of September 1, 2004." 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 satisfies 37 CFR 1.10(d)(1).

The instant petition satisfies 37 CFR 1.10(d)(2) because Express Mail mailing label EV034246541US was placed on the second page of the Transmittal Letter included among the correspondence in question.

Regarding 37 CFR 1.10(d)(3), counsel refers to a "copy of receipt, enclosed, with postmark showing both date in, September 1, 2004, and Post Office of receipt - Grand Central Post Office, zip 10017." No copy of such a receipt appears to be present in the application file. The USPS "Track & Confirm" Web site corresponding to the instant "Express Mail" label number indicates "Acceptance, September 02, 2004, 11:50 am, NEW YORK, NY 10199." Based on the evidence currently of record, it would not be appropriate to consider the requirements of 37 CFR 1.10(d)(3) to have been satisfied.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

Since the evidence of record indicates that the basic national fee was not filed until 02 September 2004, this application is **ABANDONED** with respect to the national stage in the United States for failure to timely pay the basic national fee. Accordingly, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 08 March 2005 is hereby **VACATED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

APR 04 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kiyokazu Tanaka et al :
Application No. 10/506,615 :
Filed: September 13, 2004 :
Attorney Docket No. 258249US3XPCT

This is a decision on the petition, filed April 3, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 15, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3618 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
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Richard L Byrne
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant	: Matthias Suchy	: DECISION ON REQUEST FOR
Patent Number	: 7578785	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **722** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

18 AUG 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kelly K Kordzik
Winstead Sechrest & Minick
Po Box 50784
Dallas TX 75201

In re Application of	:	
SELBREDE	:	
Serial No.: 10/506,653	:	DECISION ON
PCT App. No.: PCT/US03/07577	:	
Int'l Filing Date: 11 March 2003	:	PETITION UNDER
Priority Date: 11 March 2002	:	
Attorney Docket No.: 25438-P009WOUS	:	37 CFR 1.137(b)
For: DOUBLE-ELECTRET MEMS	:	
ACTUATOR	:	

The petition to revive under 37 CFR 1.137(b) filed 02 August 2005 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 $300 has been provided. Per applicant's notification of loss of entitlement to small entity status under 37 CFR 1.28(c), the required petition fee of $1500 will be charged to applicant's deposit account per his authorization. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of the Notification of Missing Requirements indicating that the oath or declaration executed 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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012

Mail Date: 04/21/2010

Applicant	: Roman B Hawrylko	: DECISION ON REQUEST FOR
Patent Number	: 7238739	: RECALCULATION of PATENT
Issue Date	: 07/03/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/506,661	: OF WYETH
Filed	: 09/03/2004	:
		:

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 10 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

B.J. Sadoff
NIXON AND VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203-1808

In re Application of	:	
Escaich	:	Decision on Petition
Serial No.: 10/506,666	:	
Filed : 27 October 2004	:	
Attorney Docket No.: BUS01721081	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 17 July 2007 requesting review of a lack of unity determination. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/EP03/02925 and as such, is eligible for unity of invention practice.

In a written lack of unity determination mailed 13 July 2006, the examiner divided claims 1-16 claims into twelve groups and then requested that applicants select one SEQ ID Nos if any of Group I-XII were elected. The examiner provided no prior art to support this determination for lack of unity, instead just stating that the groups lacked shared technical feature.

On 13 October 2006, applicants elected Group IV, claims 10-12, in part and SEQ ID No 134 with traverse.

In the first Office action of the merits mailed 17 January 2007, the examiner considered the traversal and made the unity of invention determination FINAL.

Claims 10-12 were examined.

> Claims 10-12 were rejected under 35 USC 112, 2nd for indefiniteness.
> Claims 10-12 were rejected under 35 USC 112, 1st, for lack of enablement.
> Claims 10-12 were rejected under 35 USC 112, 1st, for lack of an adequate written description.
> Claims 10-12 were rejected under 35 USC 102(b) for being anticipated by Bingen et al.

Group II, claims 3-6, drawn to isolated polynucleotide sequences. It is noted that SEQ Id No 135 is directed to a polypeptide sequence and as such, would be part of Group I.

Groups (VI and VII) are both drawn to antibodies, and as such, share a technical feature and are rejoined.

Groups (VII and IX), claims 13 and 17 are rejoined as both are drawn to antibodies.

Group X, claim 15, in part, drawn to methods of detecting or diagnosing E coli infection using polypeptides.

Group XI, claim 15, in part, drawn to methods of detecting or diagnosing E coli infection using polynucleotides.

Group XIII, claim 15, in part, drawn to methods of detecting or diagnosing E coli infection using antibodies.

A response to the Office action was filed on 17 July 2007 along with this petition. An Information Disclosure Statement was also filed 17 July 2007.

DISCUSSION

Applicants' petition filed 17 July 2007 has been considered carefully. The petition argues that the unity of invention determination was incomplete for not comparing the shared technical features to establish a lack of unity of invention and for grouping inventions with the same technical feature into different groups. Applicants are correct.

In particular, vaccine compositions of Group IV and V, directed to claims 10-12 are rejoined with the polypeptide of Group I, claims 1-2, as both share the technical feature of the polypeptide.

Claim 9 had been withdrawn from the restriction requirement altogether as being directed to a "use claim. Claim 9 has now been amended to a product claim and is now directed to a subset of the polypeptides listed in claim 1. Claim 9 will be examined with Group IV.

Claim 16 will be joined for examination as being directed to a pharmaceutical composition comprising the polypeptide of claim 9.

New claims 18-19 are directed to a composition comprising a sequence selected from a group consisting of SEQ ID No 1-66 and 133-145, with a carrier. A review of the sequence listing shows that these sequences are all directed to polypeptide sequences, so new claims 18-19 will be rejoined elected Group IV.

In summary, upon reconsideration and in view of the claims as currently pending, the Groups are now set forth as follows:

Group I, claims 1-2, 9-12, 16, 18-19, drawn to polypeptides, compositions and vaccines comprising such.

Group II, claims 3-6, drawn to a second product, polynucleotides, expression vectors and host cells

Group III, claims 7-8, drawn to the first method of using the product of Group I.

Group IV, claims 13-14, drawn to a third product, antibodies.

Group V, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using polypeptides, which corresponds to the second method of using the first product.

Group VI, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using antibodies, which corresponds to the first method of using the third product.

Group VII, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using polynucleotides, which corresponds to the first method of using the second product.

Group VIII, new claims 20-21, drawn to the first method of making the first product, the composition of Group I.

37 CFR 1.475 provides guidance for lack of unity determinations made in national stage filings under 35 USC 371.

1.475 Unity of invention before the International Searching Authority, the International Preliminary Examining Authority and during the national stage.

(a) An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention 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.

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
(1) A product and a process specially adapted for the manufacture of said product; or
(2) A product and process of use of said product; or
(3) A product, a process specially adapted for the manufacture of the said

product, and a use of the said product; or
(4) A process and an apparatus or means specifically designed for carrying out the said process; or
(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.

(d) If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

(e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

In this application, the groups pertain generally to the technical feature of E. coli markers and vaccines. As evidenced by Bingen et al, E. coli antigens, vaccines and markers are not a contribution over the prior art, so the technical feature which links Groups I-VIII does not impart unity of invention.

37 CFR 1.475(b) permits a combination of different inventions in a single application, such as first product, a first method of making it and a first method of using it. In this application, (using revised Group numbers set forth above) Group I corresponds to the first product, Group VIII corresponds to the first method of making the first product and Group III is directed to the first method of using the first product. In this application, because the first product, as claimed, does not make a contribution over the prior art in view of Bingen et al, there is no obligation for the Office to examine the first method of making and first method of using the first product.

Concerning the placement of claim 15 into three separate groups, it is noted that 37 CFR 1.475(e) specifically permits lack of unity determination to be made within alternatives of a single claim.

Concerning the requirement to elect a single sequence or combination of sequences for examination, it is noted that applicants elected SEQ ID No 134, however applicants did not present any reasoning or arguments as to why an election of specie requirement was being traversed. Similarly, in the petition filed on 17 July 2007 applicant did not specify any reasons why the requirement to elect a sequence for examination was improper. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election of sequence SEQ ID No 134 has been treated as an election without traverse (MPEP § 818.03(a)).

DECISION

Accordingly, the petition filed under 37 CFR 1.181 on 17 July 2007 is **GRANTED-IN-PART**. The lack of unity determination set forth on 13 July 2006 has been re-formulated, as follows.

Group I, claims 1-2, 9-12, 16, 18-19, drawn to polypeptides, compositions and vaccines comprising such.

Group II, claims 3-6, drawn to polynucleotides, expression vectors and host cells

Group III, claims 7-8, drawn to the first method of using the product of Group I.

Group IV, claims 13-14, drawn to antibodies.

Group V, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using polypeptides.

Group VI, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using antibodies.

Group VII, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using polynucleotides.

Group VIII, new claims 20-21, drawn to a method of making the composition of Group I.

Group I includes applicants elected invention polypeptides having SEQ ID No 134 is under examination.

The application will be forwarded to the examiner to consider the amendment, response and IDS filed 17 July 2007 and to prepare a non-final Office action consistent with this petition decision.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 03 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

B.J. Sadoff
NIXON AND VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203-1808

In re Application of	:	
Escaich	:	Decision on Petition
Serial No.: 10/506,666	:	
Filed : 27 October 2004	:	
Attorney Docket No.: BUS01721081	:	

This letter is in response to the Renewed Petition under 37 C.F.R. 1.181 filed on 11 February 2008 requesting reconsideration of the petition decision mailed 10 December 2007.

Applicants are correct that the petition decision mailed 10 December 2007 did not clearly address the status of claim14 and claim 17.

DECISION

The petition filed under 37 CFR 1.181 on 17 July 2007 is **GRANTED**.

Claims 13 and 14 are rejoined in new Group IV as both are directed to antibodies.

Claim 17 is placed in new Group IX for the reasons set forth below.

The status of claims 14 and 17 in the Groups is clarified below.

Group I, claims 1-2, 9-12, 16, 18-19, drawn to polypeptides, compositions and vaccines comprising such.

Group II, claims 3-6, drawn to polynucleotides, expression vectors and host cells

Group III, claims 7-8, drawn to the first method of using the product of Group I.

Group IV, claims 13-14, drawn to antibodies.

Group V, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using polypeptides.

Group VI, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using antibodies.

Group VII, claim 15, in part, drawn to a method of detecting or diagnosing E coli infection using polynucleotides.

Group VIII, new claims 20-21, drawn to a method of making the composition of Group I.

Group IX, claim 17, drawn to a method of treatment using the antibodies of Group IV.

Group IX is drawn to a method of using the third product listed in the order of the claims. PCT Rule 13.2 and 37 CFR 1.475 permits unity of invention among the first method of making a first product and the first method of using a first product, when the first product listed in the order of the claims makes a contribution over the prior art. In this instance, unity is lacking between Group IX and Groups I-VIII because Group IX is a method of treatment using the third product listed in the order of the claims.

Group I and SEQ ID No 134 are under examination.

The application will be forwarded to the examiner to consider the amendment, response and IDS filed 17 July 2007 and to prepare a non-final Office action 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.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 29 2009

Darren Crew
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N. W.
Suite 400
Washington, DC 20005

In re Application of	:	
Kazuhiko Sugiyama et al	:	DECISION ON PETITION
Application No. 10/506,671	:	REGARDING INFORMATION
Filed: September 4, 2004	:	DISCLOSURE STATEMENT
Attorney Docket No.: 040478	:	
For: PIPE JOINT	:	

This is in response to applicants' petition filed October 9, 2008 seeking to have the International Search Report dated July 8, 2003 that was included in the Information Disclosure Statement of on December 29, 2004 considered by the examiner; applicants' petition filed October 10, 2008 seeking to have the European Search Report dated October 20, 2005 that was included in the Information Disclosure Statement filed on January 4, 2006 considered by the examiner; and applicants' second petition filed October 10, 2008 seeking to have the supplementary European Search Report dated January 23, 2006 that was included in the Information Disclosure Statement filed on February 21, 2006 considered by the examiner. These three petitions pertain to the same issue as directed to three different IDS submissions and thus will be treated together in this decision.

The petition is **GRANTED**.

Applicants indicate that the respective citation of the International Search Report dated July 8, 2003, the European Search Report dated October 20, 2005 and the supplementary European Search Report dated January 23, 2006 complied with all of the requirements as set for by 37 CFR 1.97 and 37 CFR 1.98 and thus the examiner had an obligation to consider these documents instead of lining them out as not considered.

A review of the record reveals that applicants are correct in that the IDS submissions with respect to these three citations complied with all of the requirements of 37 CFR 1.97 and 37 CFR 1.98.

In this regard, it is noted that applicants have a duty to disclose to the Office information which is material to patentability as defined by 37 CFR 1.56. The provisions of 37 CFR 1.97 and 37 CFR 1.98 provide a mechanism by which patent applicants may comply with this duty of

disclosure. These provisions define minimum requirements for the submission of information to the Office.

MPEP 609 states:

> *"Once the minimum requirements of 37 CFR 1.97 and 37 CFR 1.98 are met, the examiner has an obligation to consider the information. There is no requirement that the information must be prior art references in order to be considered by the examiner. Consideration by the examiner of the information submitted in an IDS means nothing more than considering the documents in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. The initials of the examiner placed adjacent to the citations on the **PTO/SB/08A and 08B or its equivalent mean that the information has been considered by the examiner to the extent noted above."*

Accordingly, it is evident that while applicants have a duty to disclose materially relevant information, there is no requirement that only materially relevant or prior art information be disclosed and included with any IDS submission.

Since applicants submission of the three documents in question met the minimum requirements of 37 CFR 1.97 and 37 CFR 1.98, the examiner was obligated to consider such documents and indicate such consideration by initialing adjacent the citations. Thus, the examiner's lining through of these citations as "not considered" was in error. The application is being forwarded to the examiner so that these citations may be properly initialed as "considered".

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.

David J. Bagnell, Acting Director
Technology Center 3600
(571) 272-6999
Facsimile No.: (571) 273-8300

SNM/DS: 1/13/09

SM

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

17 OCT 2006

Gary M. Cohen
125 Strafford Ave Ste 300
Strafford Building Number Three
Wayne, PA 19087

In re Application of KLAUDER	:	
U.S. Application No.: 10/506,708	:	
PCT Application No.: PCT/US03/09667	:	
Int. Filing Date: 28 March 2003	:	
Priority Date Claimed: 29 March 2002	:	DECISION
Attorney Docket No.: BENDS2	:	
For: METHOD FOR DESIGNING	:	
GENERALIZED SPIRALS, BENDS, JOGS,	:	
AND WIGGLES FOR RAILROAD TRACKS	:	
AND VEHICLE GUIDEWAYS		

This is in response to applicant's "Petition Under 37 C.F.R. §1.78(a)(3)" filed 04 November 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) since applicant is seeking to add a benefit claim to both a prior filed nonprovisional application and prior filed provisional applications.

BACKGROUND

On 28 March 2003, applicant filed international application PCT/US03/09667, which claimed priority of an earlier United States application filed 29 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 29 September 2004.

On 07 September 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 04 November 2005, applicant filed the present petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

DISCUSSION

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

A petition under 37 CFR 1.78(a)(3) and 37 CFR 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.

With regard to item (1) above, the requisite reference to the prior-filed applications has been included in an amendment to the first paragraph of the specification.

With regard to item (2) above, the requisite surcharge has been provided.

With regard to item (3) above, the petition states, "[T]he entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the filing of this Petition and the accompanying Amendment Pursuant to 37 C.F.R. §1.78(a)(3)(i), the date the claim was filed, was unintentional." This statement is interpreted as a statement that the entire delay between the date the claim was due under paragraphs 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is GRANTED.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional and provisional applications, accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 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 applications. In order for this application to be entitled to the benefit of the prior-filed

applications, all other requirements under 35 U.S.C. §§120 and 365(c) 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. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to the undersigned. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2128 for appropriate action on the amendment filed 04 November 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 and 35 U.S.C. 119(e) to the prior-filed nonprovisional and provisional applications.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Boris Milef
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
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/506,708	09/07/2004	2128	1655	BENDS2	3	17	1

CONFIRMATION NO. 3553

CORRECTED FILING RECEIPT

OC000000020478264

Gary M Cohen
Strafford Building Number Three
Suite 300
125 Strafford Avenue
Wayne, PA 19087-3318

Date Mailed: 09/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Louis T. Klauder JR., Newtown Square, PA;

Power of Attorney:

Gary Cohen--28834

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/09667 03/28/2003
which claims benefit of 60/368,952 03/29/2002
and claims benefit of 60/371,842 04/11/2002
and claims benefit of 60/388,859 06/17/2002
and claims benefit of 60/391,638 06/27/2002
and is a CIP of 10/311,613 12/17/2002 PAT 7,027,966
which is a 371 of PCT/US01/41074 06/20/2001
which claims benefit of 60/212,499
and claims benefit of 60/292,037 05/21/2001
and claims benefit of 60/294,288 05/31/2001

Foreign Applications

If Required, Foreign Filing License Granted: 11/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/506,708

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for designing generalized spirals, bends, jogs, and wiggles for railroad tracks and vehicle guideways

Preliminary Class

703

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

OCT 2 1 2008

Stephanie Seidman
BELL, BOYD & LLOYD
3580 CARMEL MAOUNTAIN ROAD, SUITE 200
SAN DIEGO, CA 91230

In re Application of	:
BORODY et al	:Decision on Petition
Serial No.: 10/506,728	:
Filed : 27 June 2005	:
Attorney Docket No.:119381-000002/3703US	:

This letter is in response to the Petition filed on 25 August 2008 under 37 CFR 1.181 requesting reconsideration of the lack of unity and withdrawal of the restriction made final.

BACKGROUND

This application was filed as a national stage application under 35 U.S.C. 371. As such, this application is entitled to PCT unity of invention rules.

On 30 November 2007, the examiner required a 10-way lack of unity requirement among the products and processes recited in the original 36 claims. The examiner reasoned that the inventions lacked unity because Kang et al disclosed the special technical feature of a composition comprising a water soluble salt, a water soluble minimally degradable sugar, a water soluble potassium salt and a water soluble magnesium salt.

On 29 May 2008, applicants elected Group I, claims 1-9 and the species of xylose as the minimally degradable sugar with traverse. Applicants also amended claims 1, 3, 4, 12, 13, 35 and 36 and added new claims 37-38.

On 7 July 2008, the examiner considered the traversal. The examiner withdrew the restriction requirement between Group I (product) and Group II (first method of using the first product). The examiner made the restriction requirement FINAL. Claims 12-18 and 34-36 were withdrawn from consideration. Claims 1-7 and 39 were rejected under 35 USC 102(b) as being anticipated by Wolf. Claims 1, 3, 5 and 10-11 were rejected under 35 USC 102(b) as being anticipated by Kawakami. Claims 2, 8-9 and 37-38 were rejected under 35 USC 103(a) as being unpatentable over Kawakami in view of Frauendorfer, further in view of Cockerill.

On 25 August 2008, applicants filed this petition

DISCUSSION

The file history and petition have been considered carefully. The petition requests reconsideration of the lack of unity determination made among Groups I-V.

REQUIREMENT FOR UNITY OF INVENTION

As provided in 37 CFR 1.475(a), an international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an international application, the requirement of unity of invention 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.

In the lack of unity requirement, the Examiner asserted that the shared technical feature was not a contribution over the prior art in view of Kang et al. This reference was again relied upon in the first Office action on the merits and was the focus of Applicants petition.

This argument is not persuasive in view of the first Office action on the merits, in which the claims have been rejected over prior art as follows:

> Claims 1-7 and 39 were rejected under 35 USC 102(b) as being anticipated by Wolf.
>
> Claims 1, 3, 5 and 10-11 were rejected under 35 USC 102(b) as being anticipated by Kawakami. Claims 2, 8-9 and 37-38 were rejected under 35 USC 103(a) as being unpatentable over Kawakami in view of Frauendorfer, further in view of Cockerill.

In view of the outstanding art rejections upon independent claim 1, the technical feature linking Groups I, III, IV and V is not considered to be a contribution over the prior art. For this reason, unity of invention is lacking among Groups I, III, IV and V, a posteriori.

When Claims Are Directed to Multiple Processes, Products, and/or Apparatuses:

Products, processes of manufacture, processes of use, and apparatuses are different categories of invention. When an application includes claims to more than one product, process, or apparatus, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the "main invention" in the claims. In the case of non-compliance with unity of invention and where no additional fees are timely paid, the international search and/or international preliminary examination, as appropriate, will be based on the main invention in the claims. See PCT Article 17(3)(a), 37 CFR 1.475(d), 37 CFR 1.476(c) and 37 CFR 1.488(b)(3).

As provided in 37 CFR 1.475(b), an international application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1)A product and a process specially adapted for the manufacture of said product; or

(2)A product and process of use of said product; or

(3)A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4)A process and an apparatus or means specifically designed for carrying out the said process; or

(5)A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

Groups III, IV and V are directed to methods of treatment for lavage-associated conditions (Group III), acute gastrointestinal infections (Group IV) or constipation (Group V) by administering the composition of claim 1 to a patient in need thereof. Each method requires the technical feature of administered to a particular patient population that is not necessarily co-extensive. For example, it is unlikely that the patient suffering from constipation (Group V) would also be suffering from a gastrointestinal infection (Group IV). As such, unity of invention is lacking a priori among Groups III, IV and V, because each of the methods of Groups III, IV and V require a technical feature not required for the other methods.

The examiner has required restriction between product and process claims. Upon allowance of all claims directed to the elected product invention, applicant may be entitled to rejoinder of process claims. MPEP 821.04 provides concerning rejoinder between product and process inventions.

> Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

DECISION

The petition filed under 37 CFR 1.181 on 27 August 2008 is **DENIED**.

The lack of unity requirement set forth between Group I and Group II was withdrawn by the examiner in the Office action mailed 7 July 2008.

This petition decision maintains the lack of unity requirement set forth between Groups (I and II) and Groups III, IV and V.

Any request for reconsideration should be mailed with two (2) months from the mail date of this decision.

Applicants remain under obligation to respond in a timely manner to the Office action mailed 7 July 2008.

Should all claims to the elected product become in condition for allowance, the examiner will reconsider claims drawn to methods of making or using the allowable product for rejoinder, per MPEP 821.04 and 821.04(b).

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 C. Elliott

George Elliott
Director, Technology Center 1600

14 NOV 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Monica R. Gerber
CHOATE HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109-2804

In re Application of:	:	
GARDNER, Timothy, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/506,734	:	37 CFR 1.47(a)
PCT No.: PCT/US03/06491	:	
International Filing Date: 05 March 2003	:	
Priority Date: 06 March 2002	:	
Attorney's Docket No.: 2004647-0011	:	
For: SYSTEMS AND METHODS FOR	:	
REVERSE ENGINEERING MODELS	:	
OF BIOLOGICAL NETWORKS	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 31 October 2005. Deposit Account No. 03-1721 will be charged the required petition fee.

BACKGROUND

On 05 March 2003, applicants filed international application PCT/US03/06491 which claimed a priority date of 06 March 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., 06 September 2004.

On 03 September 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 28 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 was required.

On 31 October 2005, applicants filed a response to the Notification Of Missing Requirements (with required five month extension fee). The submission includes the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor, Jesper TEGNER, whom applicants argue has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have authorized a charge to deposit account number 03-1721 for the required petition fee, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, the petition refers only to the failure to obtain the signature of joint inventor Jesper TEGNER, implying that the signatures of the other inventors have been obtained. However, applicants have not included a declaration executed by the cooperating inventors (and containing an unsigned signature block for the nonsigning inventor). No declaration has been submitted at all. Accordingly, item (3) is not satisfied.

Regarding item (4), the petition refers to efforts made to obtain Dr. TEGNER's signature, including a mailing of the declaration to the inventor's last known address, two follow-up emails, and unsuccessful attempts to reach the inventor at a recently obtained telephone number.

The present record is insufficient to support the conclusion that the inventor has refused to sign the application or cannot be located after diligent effort. Pursuant to MPEP section 409.03(d), before it can be concluded that an applicant refuses to sign the application papers, firsthand evidence must be provided confirming that a copy of the complete application (including specification drawings and claims) has been provided to the last known address of the inventor. Applicant here has not provided such evidence. As noted above, applicant only claims to have mailed a copy of the declaration to the inventor, not the complete application. Moreover, no evidence of receipt by the inventor at this address has been provided (i.e., a signed return receipt). The failure of an inventor to respond to a single mailing, receipt of which has not been confirmed, is not considered a constructive refusal to sign the application. The evidence here is also insufficient to demonstrate that the inventor cannot be located after diligent effort (for example, no evidence has been provided to demonstrate that the last known address of the inventor is no longer current, and applicants have provided evidence that a new telephone number for the inventor was obtained only two days before the petition was mailed).

Before item (4) can be considered satisfied, applicants must provide further evidence that demonstrates either: (1) that the complete application papers have been delivered to the nonsigning inventor, and he has refused to execute the application papers; or (2) proper evidence that the inventor cannot be located after diligent effort. Such materials must be in the form required under section 409.03(d) of the MPEP.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (3) and (4) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

31 JUL 2006

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Monica R. Gerber
CHOATE HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109-2804

In re Application of:	
GARDNER, Timothy, et al.	DECISION ON RENEWED
U.S. Application No.: 10/506,734	PETITION UNDER
PCT No.: PCT/US03/06491	37 CFR 1.47(a)
International Filing Date: 05 March 2003	
Priority Date: 06 March 2002	
Attorney's Docket No.: 2004647-0011	
For: SYSTEMS AND METHODS FOR REVERSE ENGINEERING MODELS OF BIOLOGICAL NETWORKS	

In a decision mailed by this Office on 14 November 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted: (1) a declaration executed by the inventors on their own behalf and on behalf of the non-signing inventor, and (2) adequate evidence that the non-signing inventor had been presented with copies of the complete application and refused to sign.

On 16 June 2006, applicants filed the renewed petition considered herein (with required extension fee). The renewed petition states that the required declaration of the inventors was included with the original petition filed 31 October 2005. A review of the application file confirms that the required declarations, executed by the cooperating inventors and containing an unsigned signature block for the non-signing inventor, were included with applicants' 31 October 2005 submission. These materials satisfy the declaration requirement of a grantable petition.

With respect to the non-signing inventor's refusal to execute the application, the renewed petition includes additional materials confirming that a copy of the complete application papers, with a request for signature, was forwarded to the non-signing inventor at his last known address, and that the inventor has failed to provide the requested signature. This submission, in combination with the materials included with the original petition, provides an adequate showing that the inventor has refused to execute the application. Applicants have therefore satisfied the final requirement for a grantable petition.

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of inventor Jesper TEGNER.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the inventors of the application will be forwarded to the nonsigining inventors at their last-known addresses, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 31 October 2005.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

31 JUL 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

Jesper TEGNER
Karlavagen 90, S-115 22
Stockholm, SWEDEN

In re Application of: GARDNER, Timothy, et al.
U.S. Application No.: 10/506,734
PCT No.: PCT/US03/06491
International Filing Date: 05 March 2003
Priority Date: 06 March 2002
Attorney's Docket No.: 2004647-0011
For: SYSTEMS AND METHODS FOR REVERSE ENGINEERING MODELS OF BIOLOGICAL NETWORKS

Dear Dr. TEGNER:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

RMR

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel Of Record:
Monica R. Gerber
CHOATE HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109-2804

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,735	05/27/2005	Toshiaki Kodake	075834.00308	5257

EXAMINER
LE, TUAN H

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
01/11/2008	PAPER

7590 01/11/2008
ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

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

Adjustment date: 01/10/2008 RCLEMONS
06/02/2005 SNAJARRO 00000086 10506735
01 FC:1617 -130.00 OP

02 FC:1615 -144.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,735	05/27/2005	Toshiaki Kodake	075834.00308	5257

33448 7590 01/10/2008
ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER
LE, TUAN H

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment	Application No.	Applicant(s)	
	10/506,735	KODAKE ET AL.	
	Examiner	Art Unit	
	Le, Tuan	2622	

-- 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OMORI & YAGUCHI USA, LLC
EIGHT PENN CENTER, SUITE 1901
1628 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA PA 19103

COPY MAILED

OCT 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Tsuyoshi Harada et al :
Application No. 10/506,762 :
Filed: March 11, 2005 :
Attorney Docket No. :
Y03S016PCT-US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 9, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 9, 2007. Accordingly, the date of abandonment of this application is July 10, 2007. A Notice of Abandonment was mailed on August 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/13/08

TO SPE OF : ART UNIT 3611 Lesley Morris (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/506779 Patent No.: 7300067

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

H. Riley

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: _____

APPROVED

/PAUL N. DICKSON/ — **SPE**

3611 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PETER B. GOLDMAN
LEONARD FELKER ALTFELD GREENBERG & BATTAILE
250 NORTH MEYER AVENUE
TUCSON, AZ 85701

COPY MAILED

JUN 09 2008

In re Application of	:	
JIN, Myoung	:	
Application No. 10/506,795	:	DECISION ON PETITION
Filed: September 3, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "on the information and belief, applicant has retained other attorneys/agents" does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LUTHER LAW FIRM**
105757 N. 114TH STREET, SUITE 103
SCOTTSDALE, AZ 85259

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

23 NOV 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SENT VIA FACSIMILE TO
52 33 36 366 338
AND VIA FIRST CLASS MAIL

Flavio Valerio Marin Hernandez
Cerrada 8 #2241-27
Residencial Patria
45150
ZAPOPAN, JALISCO, MEXICO

In re Application of HERNANDEZ Serial No.: 10/506,800 PCT No.: PCT/MX02/00020 Int. Filing Date: 13 March 2002 Priority Date: None Atty. Docket No.: None For: INFLATABLE TOY AND PRODUCTION METHOD THEREOF	DECISION

This is in response to applicant's communication requesting withdrawal of the holding of abandonment in the above reference application. The communication was filed in the United States Patent and Trademark Office, PCT Legal Office, via facsimile on 05 May 2005.

On 07 September 2004, within the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 and a declaration signed by the inventor. The basic national fee, a requirement under 35 U.S.C. 371(c), was submitted in the form of a bank check in the amount of $585 U.S. dollars. The amount of the check, however, was written in the Spanish language.

On 02 March 2005, a Notification of Abandonment was mailed to applicant indicating that applicant had not fulfilled all the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) because applicant failed to provide the basic national fee by 30 months.

In the communication received on 05 May 2005, applicant alleges that he filed a check for $585 for the basic national fee. Applicant included, *inter alia*, a photocopy of the bank receipt (in the Spanish language) for the purchase of the cashier's check for the amount of $585 in U.S. dollars.

DISCUSSION

A review of the application file reveals that the request for entry into the U.S. national stage was filed on 07 September 2004. Applicant submitted a bank check in the amount of $585 for payment of the basic national fee. The amount of the check was written in the Spanish language and created some confusion. The check was submitted to the USPTO bank handling U.S. funds only; it should have been deposited with the USPTO bank handling international funds. Upon inquiry from applicant in May 2005, the Office of Finance returned the original bank check to applicant.

In his communication filed on 05 May 2005, applicant requests that the holding of abandonment be withdrawn since he paid the basic national fee with his request for entry into the U.S. national stage.

In light of the above stated circumstances, the holding of abandonment will be vacated upon payment of the basic national fee, in compliance with 35 U.S.C. 371(c). Applicant is advised to submit payment in the amount of $585 (U.S. dollars), and if possible, in the English language. [1]

CONCLUSION

For the reasons stated above, the request to withdraw the holding of abandonment is held in abeyance to await applicant's response to this decision.

The proper reply is the submission of the basic national fee of $585 paid in U.S. dollars.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286

---

[1] Method of payment 37 CFR 1.23(a) All payments of money required for United States Patent and Trademark Office fees, including fees for the processing of international applications (§ 1.445), shall be made in U.S. dollars and in the form of a cashier's or certified check, Treasury note, national bank notes, or United States Postal Service money order. If sent in any other form, the Office may delay or cancel the credit until collection is made. Checks and money orders must be made payable to the Director of the United States Patent and Trademark Office. (Checks made payable to the Commissioner of Patents and Trademarks will continue to be accepted.) *Payments from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required.* Money sent to the Office by mail will be at the risk of the sender, and letters containing money should be registered with the United States Postal Service.
(b) Payments of money required for United States Patent and Trademark Office fees may also be made by credit card, except for replenishing a deposit account. Payment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and is subject to collection of the fee. The Office will not accept a general authorization to charge fees to a credit card. If credit card information is provided on a form or document other than a form provided by the Office for the payment of fees by credit card, the Office will not be liable if the credit card number becomes public knowledge.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

25 AUG 2006

SENT VIA FACSIMILE TO
52 33 36 366 338
AND VIA FIRST CLASS MAIL

Flavio Valerio Marin Hernandez
Cerrada 8 #2241-27
Residencial Patria
45150
ZAPOPAN, JALISCO, MEXICO

In re Application of HERNANDEZ Serial No.: 10/506,800 PCT No.: PCT/MX02/00020 Int. Filing Date: 13 March 2002 Priority Date: None Atty. Docket No.: None For: INFLATABLE TOY AND PRODUCTION METHOD THEREOF	DECISION ON DECLARATION

This is in response to applicant's communication was filed in the United States Patent and Trademark Office, PCT Legal Office, on 30 June 2006.

A review of the application file reveals that the request for entry into the U.S. national stage was filed on 07 September 2004 along with an executed declaration. The published international application PCT/MX02/00020 listed the sole inventor's name as Flavio Valerio Marin Hernandez. The executed declaration identifies the inventor as Flavio Valerio Marin but the declaration was executed as Flavio Marin Hernandez.

On 31 March 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that the declaration was not executed in accord with 37 CFR 1.66 or 1.68 as the name of the inventor listed on the declaration did not correspond to the inventor's name listed on the published application.

On 30 June 2006, applicant submitted a statement declaring that his name is Flavio Valerio Marin Hernandez, which was accompanied by a notary's statement that Flavio Marin Hernandez appeared before him.

DISCUSSION

The statement does not satisfy the requirements of 37 CFR 1.66 or 1.68. The declaration submitted on 07 September 2004 is not properly executed as it states only "Marin" as the inventor's last name, where the international application lists "Marin Hernandez". Thus, the declaration is unacceptable.

The declaration must identify the inventor's name as listed on the published international application, that is, Flavio Valerio **Marin Hernandez**. The declaration must also identify the inventor's mailing address, citizenship and residency. A copy of the Form PTO/SB/01 is enclosed for applicant's convenience.

CONCLUSION

For the reasons stated above, the declaration submitted on 07 September 2004 is unacceptable. The application will be held in the PCT Legal Office to await applicant's reply.

The proper reply is the submission of a newly executed declaration in compliance with 37 CFR 1.497(a) and (b) and in accord with this decision.

Applicant has ONE (1) month from the mail date of this decision within which to reply or the time remaining under the Notification of Missing Requirements, whichever is longer.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

Enclosure: Form PTO/SB/01

WIPO PCT

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

06 DEC 2006

SENT VIA FACSIMILE TO
52 33 36 366 338
AND VIA FIRST CLASS MAIL

Flavio Valerio Marin Hernandez
Cerrada 8 #2241-27
Residencial Patria
45150
ZAPOPAN, JALISCO, MEXICO

In re Application of HERNANDEZ Serial No.: 10/506,800 PCT No.: PCT/MX02/00020 Int. Filing Date: 13 March 2002 Priority Date: None Atty. Docket No.: None For: INFLATABLE TOY AND PRODUCTION METHOD THEREOF	DECISION ON DECLARATION

This is in response to applicant's declaration filed in the United States Patent and Trademark Office, PCT Legal Office, on 26 September 2006.

A review of the application file reveals that the request for entry into the U.S. national stage was filed on 07 September 2004 along with an executed declaration. The published international application PCT/MX02/00020 listed the sole inventor's name as Flavio Valerio Marin Hernandez. The executed declaration identifies the inventor as Flavio Valerio Marin but the declaration was executed as Flavio Marin Hernandez.

On 31 March 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that the declaration was not executed in accord with 37 CFR 1.66 or 1.68 as the name of the inventor listed on the declaration did not correspond to the inventor's name listed on the published application.

On 30 June 2006, applicant submitted a statement declaring that his name is Flavio Valerio Marin Hernandez, which was accompanied by a notary's statement that Flavio Marin Hernandez appeared before him.

On 25 August 2006, a decision was mailed indicating that the statement did not satisfy the requirements of 37 CFR 1.66 or 1.68 and thus, the declaration was unacceptable.

The declaration submitted on 26 September 2006 identifies the inventor's name as listed on the published international application, that is, Flavio Valerio Marin Hernandez and identifies the inventor's mailing address, citizenship and residency. However, the declaration is not executed and thus is not in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons stated above, the unexecuted declaration submitted on 26 September 2006 is unacceptable.

Applicant has ONE (1) month from the mail date of this decision within which to reply or the time remaining under the Notification of Missing Requirements, whichever is longer.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

12 MAR 2007

SENT VIA FACSIMILE TO
52 33 36 366 338
AND VIA FIRST CLASS MAIL

Flavio Valerio Marin Hernandez
Cerrada 8 #2241-27
Residencial Patria
45150
ZAPOPAN, JALISCO, MEXICO

In re Application of	:
HERNANDEZ	:
Serial No.: 10/506,800	:
PCT No.: PCT/MX02/00020	:
Int. Filing Date: 13 March 2002	: DECISION ON
Priority Date: None	:
Atty. Docket No.: None	:DECLARATION
For: INFLATABLE TOY AND PRODUCTION	:
METHOD THEREOF	:

This is in response to applicant's declaration filed in the United States Patent and Trademark Office, PCT Legal Office, on 22 February 2007.

On 31 March 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that the declaration was not executed in accord with 37 CFR 1.66 or 1.68 as the name of the inventor listed on the declaration did not correspond to the inventor's name listed on the published application.

On 30 June 2006, applicant submitted a statement declaring that his name is Flavio Valerio Marin Hernandez, which was accompanied by a notary's statement that Flavio Marin Hernandez appeared before him.

On 25 August 2006, a decision was mailed indicating that the statement did not satisfy the requirements of 37 CFR 1.66 or 1.68 and thus, the declaration was unacceptable.

O 26 September 2006, applicant filed a declaration which was not executed and thus was not in compliance with 37 CFR 1.497(a) and (b). On 6 December 2006, a decision was mailed advising applicant that the declaration was not acceptable because an executed declaration was required.

On 22 February 2007, applicant filed a newly executed declaration. A review of the declaration reveals that it is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons stated above, the executed declaration submitted on 22 February 2007 is

acceptable.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 22 February 2007.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

19 JAN 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of ROBERT LANGE Serial No.: 10/506,803 PCT App. No.: PCT/CH02/00136 Int'l Filing Date: 06 March 2002 Priority Date: 09 March 2001 Attorney Docket No.: Q83451 For: LONGITUDINAL IMPLANT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from 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 has been 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 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 $65 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Sep-08

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

COPY MAILED

SEP 04 2008

In re Application of	:	
Ausborn et al.	:	
Application Number: 10/506822	:	DECISION ON PETITION
Filing Date: 09/07/2004	:	
Attorney Docket Number: DV/4-32408A	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on July 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 21, 2007, for failure to file a timely reply to the non-final Office action mailed on December 20, 2007, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 7, 2008.

Petitioner requests that the application be revived for copendency with a subsequently filed continuing application. A

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

review of Office PALM records reveals that continuing Application No. 12/218,639 was filed on July 17, 2008.

Since this application is revived for purposes of continuity only with continuing Application No. 12/218,639, filed on July 17, 2008, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced application.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON WI 53701-1507

COPY MAILED

SEP 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Balint et al.	:	
Application No. 10/506,852	:	DECISION ON PETITION
Filed: September 3, 2004	:	
Attorney Docket No. JCI-158	:	

This is a decision on the petition, filed July 9, 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 **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed October 16, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 28, 2009.

Petitioner asserts that the Office action dated October 16, 2008 was not received.

A review of the written record indicates a Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address was received on October 3, 2008. However, the October 16, 2008 Office action was incorrectly mailed to Hoffmann Miller & LaLone, the previous attorney of record.

In view of the fact that the Office action was mailed to the incorrect law firm and address, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

In view of the fact that petitioner has provided an Amendment with the instant petition, this matter is being referred to Technology Center AU 1791 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

03 AUG 2006

Donald E. Schreiber
Donald E. Schreiber A Professional Corporation
P.O. Box 2926
Kings Beach, California 96143-2926

In re Application of	:	
WU, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/506,861	:	
PCT No.: PCT/US03/18705	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 12 June 2003	:	
Priority Date: 14 June 2002	:	
Atty Docket No.: 2207	:	
For: UNIVERSAL RETICLE TRANSFER SYSTEM	:	

This decision is in response to applicant's "Petition to Add an Inventor" filed 21 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 June 2003, applicant filed international application PCT/US03/18705, which claimed priority of an earlier application filed 14 June 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 14 December 2004.

On 02 September 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 signed declaration.

On 21 June 2005, applicant filed the present petition.

On 29 August 2005, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903).

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(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).

As to Item (1), applicant has provided a statement from Chien-Rong Huang declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), a review of the declaration filed 02 September 2004 finds that it includes Chien-Rong Huang as one of the inventors.

As Item (3), applicant has provided payment of the $130.00 petition fee.

Item (4), applicant has included a signed statement from Kung Chris Wu, CEO and President of the assignee consenting to the addition of Chien-Rong Huang as an inventor.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 12 June 2003 and a date of **02 September 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Applicant is advised that there is no need for the mailing of a new Form PCT/DO/EO/903 as the 371 dates remain the same as indicated in the Form PCT/DO/EO/903 mailed 29 August 2005. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

18 OCT 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jack Schwartz & Associates
1350 Broadway, Suite 1510
New York, NY 10018

In re Application of SHINOHARA	:	
U.S. Application No.: 10/506,878	:	
PCT Application No.: PCT/JP03/02442	:	
Int. Filing Date: 03 March 2003	:	DECISION
Priority Date Claimed: 04 March 2002	:	
Attorney Docket No.: 1087-2	:	
For: BODY TEMPERATURE ELEVATING	:	
AGENTS	:	

This is in response to applicant's "Petition Under 37 CFR 1.182 to Convert a PCT National Stage Application Filed Under 35 USC §371 to a United States Continuation Application Under 35 USC 111" filed 07 October 2004.

BACKGROUND

On 03 March 2003, applicant filed international application PCT/JP03/02442, which claimed priority of an earlier Japan application filed 04 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 12 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 04 September 2004.

On 03 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 October 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The present petition requests conversion of the present national stage application to a continuation application under 35 U.S.C. 111(a). U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a

showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, applicant has failed to make a showing of sufficient cause.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182". 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

COPY MAILED

MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Van Deventer et al.	:	
Application No. 10/506,881	:	ON PETITION
Filed: October 5, 2005	:	
Attorney Docket No. 28902.nob11	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Corrected Response and Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The change of correspondence address filed with the instant petition cannot be accepted because it was not signed by an attorney of record. The petitioner is not currently listed as one of the attorneys associated with Customer Number 30827. See MPEP §§ 601.03 and 405. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1632 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Patent No. 7,119,160
Sai Kodama et al.
Issue Date: October 10, 2006
Application No. 10/506,891
Filed: September 27, 2004
Attorney Docket No. 00005.001244

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT" filed December 8, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from thirty-seven (37) days to sixty-four (64) days.

The petition for patent term adjustment 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 sixty-four (64) days.

On October 10, 2006, the above-identified application matured into U.S. Patent No. 7,119,160, with a revised patent term adjustment of 37 days. On December 8, 2006, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 64 days. Patentees dispute the reduction of 27 days associated with the filing on June 14, 2006, of an Information Disclosure Statement after the mailing of the notice of allowance. Patentees assert that the paper filed on that date was a request for acknowledgment of an IDS filed September 24, 2004 and that no reduction is warranted

Patentees' arguments and evidence have been considered, and found persuasive. A review of the record reveals that the 27 day reduction is associated with the filing on June 14, 2006 of a 1449 for the purpose of requesting an initialed IDS for an IDS filed prior to the mailing of the notice of allowance. Under the circumstances the filing on June 14, 2006 of the 1449 should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result

in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The Notice of Allowance, the first Office communication after the filing of the IDS, did not reference this IDS. The Communication filed June 14, 2006, requesting the IDS be initialed was the first opportunity by applicants to address the matter. Thus, the reduction of 27 days associated with the filing of this paper is not warranted.

In view thereof, the patent should have issued with a patent term adjustment of 64 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by SIXTY FOUR **(64)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,119,160 B2

DATED : October 10, 2006

INVENTOR(S) : Sai Kodama

DRAFT

It is certified that error appears in the above -identified patent a nd 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 (37) days

Delete the phrase "by 37 days" and insert – by 64 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MUNCY, GEISSLER, OLDS & LOWE, PLLC
P.O. BOX 1364
FAIRFAX VA 22038-1364

MAILED

JAN 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,035,011	:	
Issue Date: April 25, 2006	:	
Application No. 10/506,901	:	NOTICE
Filed: September 7, 2004	:	
Attorney Docket No. BJP-0107-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

for T. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

04 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

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

In re Application of	:	
MILSTEIN, Cesar et al.	:	
Application No.: 10/506,906	:	DECISION ON
PCT No.: PCT/GB03/00974	:	
Int. Filing Date: 07 March 2003	:	REQUEST
Priority Date: 07 March 2002	:	
Attorney's Docket No.: DYC0101PUSA	:	UNDER 37 CFR 1.42
For: SCD FINGERPRINTS	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the declaration reveals an indication that joint inventor Cesar Milstein is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 07 March 2003, applicants filed international application PCT/GB03/00974, which claimed a priority date of 07 March 2002. A copy of the international application was transmitted to the Office by the International Bureau on 12 September 2003. The deadline for entry into the national stage in the United States was 07 September 2004.

On 07 September 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 30 March 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration is signed by an executor. The declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration appears to list the information for the inventors, including the Cesar Milstein, but does not list the required information for the legal representative, Ms. Celia Prilleltensky Milstein.

Additionally, the legal representative and the third inventor are named inconsistently. The third joint inventor is listed as Charles Nicholas Hales on the declaration, but was listed as C. N. Hales on the international application. An inventor is required to be listed by at least one given name. A petition to change Inventor Hales' name under 37 CFR 1.182 is required. MPEP §605.04(c). Legal Representative Celia Prilleltensky Milstein was listed as "Prilleltenski Milstein" on the international application and on the printed declaration, but she altered it to read "Prilleltensky Milstein." If this discrepancy was the result of a typographical error, it may be corrected under MPEP 201.03. Otherwise, it can be corrected with the inventor name change petition.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571)272-3292
Facsimile: (571)273-0459

28 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

In re Application of	:	
MILSTEIN, Cesar et al.	:	DECISION ON
Application No.: 10/506,906	:	
PCT No.: PCT/GB03/00974	:	REQUEST
Int. Filing Date: 07 March 2003	:	
Priority Date: 07 March 2002	:	UNDER 37 CFR 1.42 AND
Attorney's Docket No.: DYC0101PUSA	:	
For: SCD FINGERPRINTS	:	PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.42," and "Petition Under 37 C.F.R. §1.182," filed in the United States Patent and Trademark Office on 07 November 2005.

BACKGROUND

On 07 March 2003, applicants filed international application PCT/GB03/00974, which claimed a priority date of 07 March 2002. A copy of the international application was transmitted to the Office by the International Bureau on 12 September 2003. The deadline for entry into the national stage in the United States was 07 September 2004.

On 07 September 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 30 March 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 23 May 2005, applicants submitted a declaration of the inventors, indicating that inventor Milstein was deceased. It was treated as a request for status under 37 CFR 1.42.

On 04 August 2005, the Office mailed Decision on Request Under 37 CFR 1.42, refusing applicants' request.

On 07 November 2005, applicants submitted a petition under 37 CFR 1.182 and a second declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

On 23 May 2005, applicants submitted a declaration of the inventors, executed by the inventors and the legal representative of Mr. Milstein. The declaration appeared to list the information for the inventors, including the Cesar Milstein, but did not list the required information for the legal representative, Ms. Celia Prilleltensky Milstein. As indicated, the declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497.

On 07 November 2005, applicants submitted two copies of a second declaration of the inventors. The first copy lists inventors Cesar Milstein, Adrian Woolfson and Charles Nicholas Hales and the citizenship for inventor Woolfson and lists legal representatives Celia Prilleltensky Milstein and Margaret Hales and their citizenships. It is unclear to whom the mailing addresses belong. This copy is executed by Margaret Hales. The second copy of the declaration lists the inventors and legal representative Celia Prilleltensky Milstein and the citizenships of inventor Woolfson, inventor Hales and of legal representative Milstein. It does not list the citizenship for Cesar Milstein and it is not clear that it lists a mailing address for the legal representative. This second copy is executed by Milstein's legal representative, inventor Woolfson and Margaret Hales. The entry for inventor Hales is crossed out. The alteration is neither dated nor initialed.

This second declaration is defective because (1) it does not list all of the inventors and their citizenships and the legal representatives and their citizenships, residences and postal addresses and (2) it contains non-dated, non-initialed alterations, striking inventor Hales. The 23 May 2005 declaration was defective only as to legal representative Milstein. Applicants must supply an oath or declaration listing all of the inventors and their citizenships and legal representative Milstein and her citizenship, residence and postal address. The supplemental declaration need only be executed by Celia Prilleltensky Milstein. The indication that the misspelling of her name on the international application was the result of a typographical error is sufficient to correct her name.

Petition Under 37 CFR 1.182

In the international application, the third joint inventor was listed as C. N. Hales. An inventor is required to be listed by at least one given name. Applicants have supplied a petition under 37 CFR 1.182 to correct inventor Hales' name. The explanation supplied by inventor Hales' legal representative is sufficient. The fee for a petition under 37 CFR 1.182 is $400. The balance of the petition fee will be charged to deposit account no. 02-3978, as authorized.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

The petition under 37 CFR 1.182 is **GRANTED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571)272-3292
Facsimile: (571)273-0459

#11

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02 OCT 2006

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

In re Application of	:	
MILSTEIN, Cesar et al.	:	DECISION ON
Application No.: 10/506,906	:	
PCT No.: PCT/GB03/00974	:	REQUEST
Int. Filing Date: 07 March 2003	:	
Priority Date: 07 March 2002	:	UNDER 37 CFR 1.42
Attorney's Docket No.: DYC0101PUSA	:	
For: SCD FINGERPRINTS	:	

This is a decision on applicants' "Renewed Submission Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 27 June 2006.

BACKGROUND

On 28 April 2006, the Office mailed a Decision On Request Under 37 CFR 1.42 and Petition Under 37 CFR 1.182, refusing the request and granting the petition.

On 27 June 2006, applicants submitted this renewed request under 37 CFR 1.42.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

On 23 May 2005, applicants submitted a declaration of the inventors, executed by the inventors and the legal representative of Mr. Milstein. The declaration appeared to list the information for the inventors, including the Cesar Milstein, but did not list the required information for the legal representative, Ms. Celia Prilleltensky Milstein. The 27 June 2006 declaration satisfies the remaining requirements in 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further action consistent with this decision. The application has a35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 June 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571)272-3292
Facsimile: (571)273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

COPY MAILED

DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Milstein et al.	:	
Application No. 10/506,906	:	DECISION ON PETITION
Filed: September 7, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. DYC0101PUSA	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on August 24, 2006, to make the above-identified application special based on (a) developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X and (b) Accelerated Examination as set forth in M.P.E.P. § 708.02, Section VIII.

The petition under M.P.E.P. § 708.02, Section X is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes statement concerning the contribution of the instant invention to HIV/AIDS and/or cancer. Accordingly, the above-identified application has been accorded "special" status.

In view of the decision noted above, the petition under Accelerated Examination as set forth in M.P.E.P. § 708.02, Section VIII is **DISMISSED as moot**.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, 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 1623 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

BROOKS KUSHMAN P.C.
1000 Town Center
Twenty-Second Floor
Southfield MI. 48075

COPY MAILED

JAN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Milstein et al	:	
Application No. 10/506,906	:	DECISION ON PETITION
Filed: May 31, 2005	:	
Attorney Docket No. DYC0101PUSA	:	

This is a decision on the petition under 37 CFR 1.182, filed, October 11, 2007, to remove the special status accorded this application on December 21, 2006, and to vacate a restriction requirement mailed October 9, 2007.

The petition to remove special status is **DISMISSED**.

The petition to vacate the restriction requirement is **DISMISSED** as being premature.

On August 24, 2006, applicant filed a petition under 37 CFR 1.102(d) to make special based on the application being directed to developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P § 708.02, Section X. The petition included statements concerning the contribution of the instant invention to the treatment of HIV/AIDS and/or cancer. The required fee under 37 CFR 1.17(h) was received. The petition for special status was granted on December 21, 2006, and on October 5, 2007, the examiner assigned to the case issued a restriction requirement. Petitioner now seeks to have the special status withdrawn and the restriction vacated.

In view of the importance of developing treatments and cures for HIV/AIDS and cancer and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office grants "special" status to patent applications related to HIV/AIDS and cancer. Applications made special by way of petition are advanced out of turn for examination. Subject alone to diligent prosecution by the applicant, the application must continue to be special throughout its entire prosecution in the U.S. Patent and Trademark, including appeal to the Board of Patent Appeals and Interferences. See M.P.E.P. 708.01(B). Hence the special status will not be removed. The petitioner may wish to consider filing a continuation since the special status would not be present in a continuing application, absent a petition being filed.

Petitioner also requests that the Office of Petitions vacate the restriction required by the examiner on October 9, 2007.

37 CFR 1.143 provides that if applicant disagrees with a requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefore. If the requirement is repeated and made final then applicants may petition under 37 CFR 1.144. A review of the file indicates that petitioner has not complied with 37 CFR 1.143 by requesting reconsideration with reasons against the restriction. Petitioner has not placed on the record any reasons traversing the restriction given by the examiner. Petitioner has not requested reconsideration of the restriction requirement by the examiner. Furthermore, note that the restriction given has not been made final by the examiner. Therefore the request to vacate the restriction requirement is premature.

But in any event, here, 37 CFR 1.144 does not currently apply since a prerequisite to the grant of a petition to make special under 37 CFR 1.102, was applicants waiver of the right to traverse a restriction requirement. Applicant has provided the proper waiver to the office. See page 1, paragraph 2 of applicant's petition dated August 24, 2006, and M.P.E.P. 708.02 VIII (B). Therefore applicant cannot now, after receiving a restriction requirement from the examiner, withdraw the waiver, and then be permitted to traverse the restriction requirement. An application when granted special status remains special throughout the prosecution of the application. Accordingly the instant request cannot be granted.

The Associate Power of Attorney filed with the petition on August 28, 2007, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record.

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 Amy DeCloux (Reg. No. 34,380) appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. If, Amy DeCloux 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 Amy DeCloux, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The 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.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

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 Technology Center 1600.

The application is being forwarded to the Technology Center Art Unit 1644 for action.

David Bucci
Petitions Examiner
Office of Petitions

cc:

Amy DeCloux
Edward Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, Massachusetts 02205

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

COPY MAILED

SEP 2 6 2008

In re Application of Milstein et al. Application No. 10/506,906 Filed: June 27, 2006 Attorney Docket No. DYC0101PUSA	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed October 9, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were filed. Accordingly, the application became abandoned on November 10, 2007. A Notice of Abandonment was mailed April 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation in-part and a continuation application, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing applications No. 12/070,312, filed February 15, 2008 and 12/079,894 filed March 28, 2008.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Kathleen Williams
Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, Massachusetts 02205

04 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

James P. Zeller
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

In re Application of:	:	
ANDREWS, Mark, David, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/506,914	:	37 CFR 1.47(a)
PCT No.: PCT/GB03/00857	:	
Int'l Filing Date: 03 March 2003	:	
Priority Date: 04 March 2002	:	
Attorney's Docket No.: 30698/CDT413	:	
For: PHOSPHORESCENT	:	
COMPOSITIONS AND ORGANIC	:	
LIGHT EMITTING DEVICES	:	
CONTAINING THEM	:	

This decision is issued in response to applicants' petition under 37 CFR 1.47(a) filed 23 May 2005. Applicants have submitted $130 as the petition fee; however, the correct petition fee is $200. Deposit Account No. 13-2855 will be charged the remaining $70.

BACKGROUND

On 03 March 2003, applicants filed international application PCT/GB03/00857 which claimed a priority date of 04 March 2002 and which designated the United States. On 12 September 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., 04 September 2004.

On 03 September 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 21 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) 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 23 May 2005, applicants filed a response to the Notification Of Missing Requirements which included payment of the required surcharge, a declaration executed by five

of the six named inventors and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the declaration without the signature of the remaining inventor Neil MAXTED, whom applicants assert is unreachable to execute the declaration.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted a portion of the petition fee (Deposit Account No. 13-2855 will be charged the remaining amount) and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed complete declarations executed by all the named inventors except Neil MAXTED, with an unsigned signature block for Mr. MAXTED. However, there is a discrepancy between the name of one of the inventors as listed on the declaration and on the international application. Specifically, the inventor listed as Kai LOOK on the international application is identified as Kal LOOK on the declaration. If, as it appears, this disparity represents a typographical error, applicants must confirm that this is the case and confirm the proper spelling of this inventor's first name; if this represents an actual change in this inventor's name, a petition under 37 CFR 1.182 is required (see MPEP section 605.04(b)). Based on the conflict in inventor LOOK's name, item (3) of a grantable petition is not satisfied on the present record. However, if applicants submit materials resolving the conflict in inventor LOOK's name, the present declaration can be accepted as having been signed by the inventors on their own behalf and on behalf of the nonsigning inventor in satisfaction of item (3).

Regarding item (4), the petition asserts that the nonsigning inventor cannot be reached or located after diligent effort. Section 409.03(d) of the MPEP states the following concerning such cases:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, applicants have submitted a "Statement Of Facts Under 37 CFR 1.47(a)" executed by Ann Brown (with accompanying exhibits) as evidence that a diligent effort has been made to locate the nonsigning inventor. The evidence provided demonstrates that applicants have made repeated efforts to deliver a copy of the application papers to the nonsigning inventor at his last known address (the evidence appears to confirm that this address is no longer current). However, applicants have not provided any specific firsthand evidence demonstrating that a diligent effort has been made to find a more current address for this inventor (i.e., internet searches, etc.). Applicants must supplement the present submission with proper evidence of the diligent effort made to find a current address for the nonsigning inventor before item (4) can be considered satisfied.

Based on the above, applicants have not, on the present record, satisfied item (4) of a grantable petition.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the firsthand and documentary evidence required to demonstrate that a diligent effort has been made to locate a current address for the nonsigning inventor, as well as a statement (or petition, if appropriate) resolving the disparity in inventor LONG's first name, as discussed above and in the form required by the MPEP.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

18 OCT 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

James P. Zeller
MASHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, illinois 60606-6357

In re Application of:	:	
Andrews, Mark, David, et al.	:	
U.S. Application No.: 10/506,914	:	DECISION ON RENEWED
PCT No.: PCT/GB03/00857	:	PETITION UNDER
International Filing Date: 03 March 2003	:	37 CFR 1.47(a)
Priority Date: 04 March 2002	:	
Attorney's Docket No.: 30698/CDT413	:	
For: PHOSPHORESCENT COMPOSITIONS AND	:	
ORGANIC LIGHT EMITTING DEVICES	:	
CONTAINING THEM	:	

In a decision mailed 04 August 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to provide all the requirements for a grantable petition under 37 CFR 1.47(a). Specifically, applicants were required to resolve a discrepancy in the name of one of the inventors listed on the filed declaration and to provide evidence of additional efforts made to locate the nonsigning inventor.

On 15 August 2005, applicants filed the renewed petition considered herein. The renewed petition is accompanied by a statement confirming that the first name of inventor LOOK is "Kai" (as set forth in the international application) and the listing of the inventor's first name as "Kal" on the filed declaration was the result of a typographical error. Pursuant to MPEP section 605.04(b), the correct spelling of the inventor's name has been indicated on the declaration. Based on this clarification, the declaration filed by applicants on 23 may 2005 can be accepted as having been executed by the co-operating inventor's on their own and on behalf of the nonsigining inventor.

The 15 August 2005 submission also included a statement from counsel setting forth the details of further efforts made to locate the nonsigning inventor, including an internet search (with supporting documents showing the results of these efforts). These materials, in combination with the materials filed with the original petition, demonstrate that the nonsigning inventor cannot be located after diligent effort.

Applicants' have now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a). Accordingly, the renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of nonsigning inventor Neil MAXTED.

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 23 May 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

18 OCT 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

Neil MAXTED
6 White Leys Close
Didcot OX11 7LP
United Kingdom

In re Application of: Andrews, Mark, David, et al.
U.S. Application No.: 10/506,914
PCT No.: PCT/GB03/00857
International Filing Date: 03 March 2003
Priority Date: 04 March 2002
Attorney's Docket No.: 30698/CDT413
For: PHOSPHORESCENT COMPOSITIONS AND ORGANIC LIGHT EMITTING DEVICES CONTAINING THEM

Dear Mr. MAXTED:

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
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel of Record:
James P. Zeller
MASHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, illinois 60606-6357

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SYNGENTA CROP PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO, NC 27409

MAILED

OCT 28 2009

OFFICE OF PETITIONS

In re Application of Josef Ehrenfreund, et al. Application No. 10/506,918 Filed: April 28, 2005 Attorney Docket No. PPD50701/UST	: : : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 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 May 5, 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 6, 2008. A Notice of Abandonment was mailed on December 9, 2008. On July 13, 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) under 37 CFR 1.114, including the fee of $810; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1612 for processing of the RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Rutan & Tucker, LLP
611 Anton Blvd.
Suite 1400
Costa Mesa, CA 92626

COPY MAILED

OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Dong-Seung Seen, et al.	:	
Application No. 10/506,925	:	DECISION ON PETITION
Filed: September 7, 2004	:	TO WITHDRAW
Attorney Docket No. 100528.0007US1	:	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 1, 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 Todd W. Wright on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dong-Seung Seen**
301-704, Mido Apt., Banpo 4-dong
Seocho-gu
Seoul, 137-769
Republic of Korea

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/506,925	09/07/2004	Dong-Seung Seen	100528.0007US1

CONFIRMATION NO. 7725

POWER OF ATTORNEY NOTICE

34284
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

OC000000032889080

Date Mailed: 10/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2008.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
OCT 0 4 2006
OFFICE OF PETITIONS

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of	:	
Cunha	:	
Application No. 10/506,938	:	DECISION ON PETITION
Filed: March 9, 2005	:	TO WITHDRAW
Attorney Docket No. U 015362-5	:	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 3, 2006, June 9, 2006 and August 28, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by William R. Evans on behalf of all attorneys of record who are associated with customer No. 00140.

All attorneys/agents associated with the Customer Number 00140 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Agostinho Vilaca Da Cunha, LDA
Lugar de Monte Real – Rio Covo, Santa Eulalia
PT-4755-489 Barcelos Portugal

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/506,938	03/09/2005	Agostinho Vilaca Da Cunha	U 015362-5

CONFIRMATION NO. 6993

OC000000020661418

OC000000020661418

00140
LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/03/2006.

- 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.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mitchell, Silberberg & Knupp, LLP
11377 West Olympic Boulevard
Los Angeles CA 90064

COPY MAILED

OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Helen Braven et al. :
Application No. 10/506,958 : DECISION ON PETITION
Filed: May 2, 2005 : TO WITHDRAW
Attorney Docket No. 37369-8 : 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 27, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 24318. 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).

Joseph G. Swan signed the request on behalf of all attorneys of record.

Joseph G. Swan and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Helen Braven
3 Challeymead Business Park
Bradford Road
Melksham SN12 8LH
United Kingdom

cc: Matthew Kaser, Esq
Bell & Associates
416 Funston Avenue, Suite 100
San Francisco, CA 94118

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/506,958	05/02/2005	Helen Braven	37369-8

CONFIRMATION NO. 8800

OC000000020182162

24318
Mitchell, Silberberg & Knupp, LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

Date Mailed: 08/24/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : 09/17/07

Patent No. : 7041842 B2
Ser. No. : 10/506,961
Inventor(s) : KIMIZUKA, NOBUO
Issued : 05/09/06
Title : **FERROCENE-CONTAINING, ORGANIC GELLING COMPOUND, AND GEL AND CAST FILM USING THE SAME**

Docket No. : TAW-010US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

COPY MAILED

JUN 1 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Alain Delache et al	:	
Application No. 10/506,980	:	DECISION ON REQUEST FOR REFUND
Filed: September 8, 2004	:	
Attorney Docket No. 062221	:	

This is a decision on the Request For Refund filed November 14, 2008.

The request is **DISMISSED**.

The request for refund is dismissed because section 1.26(b) makes clear that refunds for payment of large entity fees are governed by § 1.28(a). Section 1.28(a) requires a refund request within three months of payment of the large entity fee, **and an assertion of small entity status**. Petitioner has not complied with the above. Additionally, the voluntary payment of the large entity extension and amendment fees based on a loss of entitlement to small entity status cannot be said to have been done in error. As entitlement to small entity status was in fact lost, payment of a large entity fee was not inappropriate.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

COPY MAILED

SEP 02 2008

In re Application of	:	
Hakan **THYSELL**	:	
Application No. 10/506,990	:	DECISION ON PETITION
Filed: March 28, 2005	:	TO WITHDRAW
Attorney Docket No. 10400-000119US	:	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 12, 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.

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.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: OBLON, SPIVAK, MCCLELLAND,
MAIER, NEUSTADT, P.C.
1940 DUKE STREET,
ALEXANDRIA, VA 22314

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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 04/21/2010

Applicant	: Edgar Ivo Maria van der Heijden	: DECISION ON REQUEST FOR
Patent Number	: 7654415	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,023	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **437** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

26 OCT 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

Darby & Darby, P.C.
P.O. Box 5257
New York, New York 10150-5257

In re Application of
SUDA, et al.
Application No.: 10/507,032
PCT No.: PCT/JP02/06472
Int. Filing Date: 27 June 2002
Priority Date: 08 March 2002
Atty. Docket No.: 04703-0201831-US0
For: CERIUM BASED COMPOSITE OXIDE, SINTERED PRODUCT THEREOF AND METHOD FOR PREPARATION THEREOF

DECISION

This decision is in response to applicant's "Request for Corrected Filing Receipt and Notice of Acceptance" filed on 16 March 2005.

BACKGROUND

On 07 September 2004, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; an English translation of the international application; and an application data sheet.

On 13 October 2004, applicant filed an executed declaration of inventors.

On 08 February 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 07 September 2004 and a 35 U.S.C. 371 completion date of 07 September 2004.

On 16 March 2005, applicant filed "Request for Corrected Filing Receipt and Notice of Acceptance."

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 07 September 2004 to 13 October 2004. The actual filing date of the present application is the international filing date, i.e., 27 June 2002. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set

forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) A review of the application file reveals that the declaration was filed with the USPTO on 13 October 2004, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of October 13, 2004 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on October 13, 2004. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's request under 37 CFR 1.181 for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 08 February 2005 is hereby **VACATED**.

The application has an international filing date of 27 June 2002 under 35 U.S.C. 363 and a date of 13 October 2004 under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of 13 October 2004 under 35 U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of 13 October 2004.

Thereafter, this application will be referred to its appropriate Art Unit.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

11 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In Re Application of ZHANG et al. Application No.: 10/507,033 PCT No.: PCT/EP03/00126 Int. Filing Date: 09 January 2003 Priority Date: 07 March 2002 Attorney Docket No.:2565/123 For: METHOD FOR DETERMINING HEMATOCRIT AND/OR BLOOD VOLUME	DECISION

This application is before the Office PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371(c).

On 09 January 2003, applicant filed international application No. PCT/EP03/00126 which claimed a priority date of 07 March 2002 and which designated the United States. Thereafter, on 07 September 2004, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. Applicant also filed a declaration, executed under PCT Rule 4.17 (in the German language).

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 11 April 2005 indicating that an English translation of the claims was required. On 26 April 2005, applicant submitted an English translation of claims 1-12. An English translation of claims 13-16 was submitted with the national stage entry.

On 31 May 2005, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 April 2005.

DISCUSSION

Applicant submitted a copy of the originally filed Request with the national stage entry. That Request included a declaration under PCT Rule 4.17. The declaration was not signed.

A review of the application in the World Intellectual Property Organization's (WIPO) website file confirms that the executed declaration, in accord with PCT Rule 4.17, was not submitted with the Request on 9 January 2003 but was submitted on a later date. The declaration was executed by the inventors, dated 17 January 2003. However this executed declaration does not identify the international application. The PCT international application number was applied to top right corner of the declaration by the International Bureau after the declaration's execution. Thus, the declaration is not in compliance with 37 CFR 1.497(a) & (b) as it did not identify the application at the time of execution. The declaration does not identify the application to which is directed and thus, is not in compliance with 37 CFR 1.497(a) & (b).

The Notification of Acceptance mailed on 31 May 2005 was erroneously issued and is hereby VACATED. A Notification of Missing Requirements will be issued indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the oath or declaration after the thirty month period is required.

CONCLUSION

For the reasons set forth above, the Notification of Acceptance is **VACATED.**

The application will be forwarded to the United States Designated/Elected Office for further processing including 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), and the surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

01/11/2007 SBASHEIR 00000003 110600 10507033
Sale Ref: 00000003 DA#: 110600 10507033
01 FC:1618 130.00 DA

Adjustment Date: 01/11/2007 SBASHEIR
05/02/2005 GFKEY1 00000061 110600 10507033
01 FC:1617 130.00 CR

31 MAR 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

James H. Walters
Dellett & Walters
P.O. Box 2786
Portland, OR 97208-2786

In re Application of CHIRIAEV, et al. U.S. Application No.: 10/507,037 PCT No.: PCT/RU02/00460 Int. Filing Date: 22 October 2002 Priority Date: 29 October 2001 Attorney Docket No.: V-293 For: METHOD AND DEVICE FOR PHYSIO-THERAPY	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee 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

10 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, GA 30326

In re Application of	:	
Schlebusch et al.	:	
Application No.: 10/507,046	:	
PCT No.: PCT/EP03/02362	:	
Int. Filing Date: 07 March 2003	:	DECISION
Priority Date: 08 March 2002	:	
Attorney Docket No.: 14836-46758	:	
For: Specific AB1' - Antibodies Against	:	
Tumour-Associated Antigen CA 125	:	

The petition to revive under 37 CFR 1.137(b) filed 26 January 2005 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 $300.00 was provided. The required petition fee of $1500.00 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 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, a surcharge under 37 CFR 1.492(h), and a processing fee 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUN 20 2008

OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of
Berthold Mollenhauer
Application No. 10/507,075
Filed: June 2, 2005
Attorney's Docket No. **H0075.70099US00**

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed, December 17, 2007, to change the name of inventor "Berthold Leimbach" to -- Berthold Mollenhauer--.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Applicants have also submitted a supplemental Application Data Sheet (ADS). However, the supplemental ADS is not signed as required. See MPEP § 605.04(b).[1] Applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected name, any patent to issue is less likely to reflect the correct name since the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

The petition fee in the amount of $400.00 has been charged to deposit account no. 23-2825.

This matter is being referred to Technology Center 3632 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

[1]MPEP 605.04(c) provides that:

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

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
10/507,075	06/02/2005	3632	1580	H0075.70099US00	27	1

CONFIRMATION NO. 4427

CORRECTED FILING RECEIPT

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

OC000000030513138

Date Mailed: 06/17/2008

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)
Berthold Mollenhauer, Munchen, GERMANY;

Assignment For Published Patent Application
Sachtler GMBH & Co. KG, Eching, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 23628

Domestic Priority data as claimed by applicant
This application is a 371 of PCT/EP03/02319 03/06/2003

Foreign Applications
GERMANY 102 11 046.8 03/13/2002

If Required, Foreign Filing License Granted: 06/16/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/507,075**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Tripod head, in particular camera tripod head

Preliminary Class

248

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

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

Philip S Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

Mail Date: 04/21/2010

Applicant	: Kristof Van Emelen	: DECISION ON REQUEST FOR
Patent Number	: 7592450	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1079** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

14 JUN 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Nath & Associates, PLLC
1030th Street, NW - 6th Floor
Washington, DC 20005

In re Application of	:	
Tsukaya et al.	:	
Application No. 10/507,106	:	
PCT No.: PCT/JP03/02755	:	
Int. Filing Date: 07 March 2003	:	DECISION
Priority Date: 12 March 2002	:	
Atty. Docket No.: 26352U	:	
For: Gene Participating In The	:	
Synthesis Of Brassinosteroid	:	

This is in response to the "Notification of Transliteration Error..." filed on 07 December 2004.

BACKGROUND

This international application was filed on 07 March 2003, designated the United States, and claimed an earlier priority date of 12 March 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 18 September 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 12 September 2004. Applicants filed *inter alia* the basic national fee on 10 September 2004.

DISCUSSION

Inspection of the declaration filed on 07 December 2004 reveals that it names a joint inventor, Hirokazu Tsukaya, whose name does not match the information appearing on the published international application, which instead refers to an inventor named "TSUKAYA, Yuichi." Counsel states that this discrepancy, as well as the spelling of this inventor's residence address, arose from a "transliteration error and the first inventor's legal name and address have not changed." Counsel refers to MPEP § 605.04(g) as authority to accept this explanation, in apparent reference to MPEP § 605.04(b), which states in part that

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed.

See also MPEP § 201.03(b). Consistent with this practice, the spelling appearing on the declaration filed on 07 December 2004 is being accepted.

BEST AVAILABLE COPY

CONCLUSION

Counsel's request is **GRANTED**, as described above.

This application is being forwarded to the National Stage Processing Branch for further processing, including the correction of all official USPTO records to reflect the information appearing for first-named inventor Tsukaya on the declaration filed on 07 December 2004. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **10 September 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

The Nath Law Group
112 S. West Street
Alexandria, VA 22314

COPY MAILED

MAY 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Tsukaya Hirokazu et al.	:	
Application No. 10/507,106	:	DECISION ON PETITION
Filed: September 10, 2004	:	TO WITHDRAW
Attorney Docket No. 26352U	:	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 17, 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 Susanne M. Hopkins and all attorneys/agents of record has been revoked by the assignee of the patent application on April 28, 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: Jenkins, Wilson, Taylor & Hunt, P.A.
Suite 1200 University Tower
3100 Tower Boulevard
Durham, NC 27707

18 JAN 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David A. Blumenthal
Foley & Lardner, LLP
3000 K Street, NW, Suite 500
Washington, DC 20007

In re Application of TAKAHASHI, et al. Application No.: 10/507,117 Filing Date: 10 September 2004 Attorney Docket No.: 029471-0168 For: SEMICONDUCTOR MEMORY DEVICE AND SEMICONDUCTOR MEMORY DEVICE CONTROL METHOD	:	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "Petition to Convert Under 37 C.F.R. § 1.182" filed on 23 December 2004 in the United States Patent and Trademark Office (USPTO), which requests that the application papers submitted on 10 September 2004 be considered a filing under 35 U.S.C. 111. The petition is being treated as a petition under 37 CFR 1.181. As no petition fee is required, the $130.00 payment will be refunded to Deposit Account No.: 19-0741.

BACKGROUND

On 26 February 2003, applicants filed international application no. PCT/JP03/02095 which claimed a priority date of 15 March 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 September 2004.

On 10 September 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; a preliminary amendment, and an application data sheet.

On 23 December 2004, applicants filed a "Petition to Convert" requesting that the application papers submitted on 10 September 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 10 September 2004, applicants submitted a specification which stated "The present application is a continuing of International Application Number PCT/JP03/02095, filed on February 26, 2003, and claims priority to Japanese Patent Application Number 2002-72953 filed on March 15, 2002, which are incorporated by reference in their entirety." 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 10 September 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**.

As discussed above, the $130.00 petition payment will be refunded to Deposit Account No.: 19-0741.

The application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

21 JUN 2006

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application of VAN SCHAIK et al	:	
U.S. Application No.: 10/507,118	:	
PCT Application No.: none	:	DECISION
Int. Filing Date: none	:	
Priority Date Claimed: 12 September 2003	:	
Attorney Docket No.: 082671-0185	:	
For: OBSERVATION DEVICE	:	

This is in response to applicant's "Petition to Convert PCT National Stage Application Under 37 C.F.R. § 1.182" filed 19 May 2006.

BACKGROUND

On 10 September 2004, applicant filed purported national stage papers in the USPTO including, *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). Form PTO-1390 listed "PCT/NL03/102486" as the International Application Number.

On 27 April 2006, this Office mailed a communication which indicated that no record of International Application Number PCT/NL03/102486 can be found.

On 19 May 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the application papers were erroneously submitted under 35 U.S.C. 371.

Pursuant to 35 U.S.C. 111(a)(4), the filing date of an application shall be the date on which the specification and any required drawing are received in the USPTO. In the present case, the papers submitted on 10 September 2004 contained a specification and drawings. Thus, the 10 September 2004 submission is entitled to a filing date under 35 U.S.C. 111(a).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

Any period of adjustment to the term of a patent under 37 U.S.C. 154(b) (May 29, 2000) may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111 and ending on the mailing date of this decision. See 37 CFR 1.704(a).

This application is being forwarded to the Office of Initial Patent Examination for processing of the application under 35 U.S.C. 111(a), including correction of Office computer records and issuance of a new filing receipt.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

COPY MAILED
MAR 03 2010

In re Patent No. 7,413,854	:	DECISION ON REQUEST
Pedersen, et al.	:	FOR
Issue Date: August 19, 2008	:	RECONSIDERATION OF
Application No. 10/507,121	:	PATENT TERM ADJUSTMENT
Filed: March 17, 2005	:	and
Atty Docket No. PENDERSEN9	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 20, 2008, and in supplement on August 6, 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 seventy-seven (577) 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 three hundred eighty-seven (387) 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 September 16, 2007, and ends on February 12, 2008, the day before the RCE was filed, and is 150 (not 340) days. See 35 U.S.C. 154(b)(1)(B)(i).

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 **three hundred eighty-seven (387)** 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 : 7,413,854 B2

DATED : Aug. 19, 2008

INVENTOR(S) : Pedersen, 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 (237) days

Delete the phrase "by 237 days" and insert – by 387 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

FEB 06 2007

OFFICE OF PETITIONS

In re Application of
Garcia
Application No. 10/507,138
Filed: 09-09-2004
Attorney Docket No. P/4043-146

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 18, 2006, to withdraw the holding of abandonment in the above-identified application.

On May 3, 2006, the Office mailed a nonfinal Office action, which set a three (3) month shortened statutory period for reply. In the apparent absence of a timely reply, the Office mailed a Notice of Abandonment on November 15, 2006.

Petitioner asserted that he submitted a timely reply to the nonfinal Office action with a certificate of mailing dated November 3, 2006. With the present petition, petitioner submitted a copy of the previously mailed reply in the form of an amendment and a request for an extension of time for response within the third month, bearing certificates of mailing dated November 3, 2006.

Upon a review of the record, the reply and the request for an extension of time for response within the third month were located in the application file. Additionally, the USPTO finance records indicate that the Office processed the payment for the three-month extension of time.

Petitioner has established that he submitted a timely reply to the nonfinal Office action. Therefore, the petition is **granted**. The holding of abandonment is withdrawn and the application is restored to pending status.[1]

---

[1] The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. The Office notes that after revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect.

This matter is being referred to Technology Center AU 2612 for appropriate action in the normal course of business on the reply received on November 13, 2006 (certificate of mailing dated November 3, 2006).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

COPY MAILED

SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Le Grand et al.	:	
Application No. 10/507,139	:	ON PETITION
Filed: September 9, 2004	:	
Attorney Docket No. PR/4-32412A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 5, 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

31 JAN 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

#5

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert D. Fish
Rutan & Tucker, LLP
611 Anton Blvd, Suite 1400
Costa Mesa, CA 92626

In re Application of	:	
Long	:	
Application No.: 10/507,146	:	
PCT No.: PCT/US02/25217	:	
Int. Filing Date: 07 August 2002	:	DECISION
Priority Date: 08 August 2001	:	
Attorney Docket No.: 100750.0001US	:	
For: Introduction Of Cyanide Waste As A NOx Reactant	:	

This is in response to the petition under 37 CFR 1.137(b) filed 08 September 2004.

BACKGROUND

This international application was filed on 07 August 2002, claimed an earliest priority date of 08 August 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 20 February 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 February 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) has not been paid. It is noted that the petition references a "fee payment," but no evidence of such payment is present. The accompanying Transmittal Letter requests that the USPTO "Please charge any additional fees required by this paper or credit any overpayment in the manner authorized above," but no reference to a specific deposit account or other source of funds is made.

Regarding requirement (2), the petition fee has not been paid (*cf.* discussion of element 1).

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 **DISMISSED**, without prejudice.

Any further correspondence regarding this matter should be addressed to the Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

22 MAR 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert D. Fish
Rutan & Tucker, LLP
611 Anton Blvd, Suite 1400
Costa Mesa, CA 92626

In re Application of	:	
Long	:	
Application No.: 10/507,146	:	
PCT No.: PCT/US02/25217	:	
Int. Filing Date: 07 August 2002	:	DECISION
Priority Date: 08 August 2001	:	
Attorney Docket No.: 100750.0001US	:	
For: Introduction Of Cyanide Waste As A NOx Reactant	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed 10 February 2005.

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. In a decision mailed on 31 January 2005, the previous petition under 37 CFR 1.137(b) was dismissed without prejudice because it had failed to satisfy requirements (1) and (2) in that

> It is noted that the petition references a "fee payment," but no evidence of such payment is present. The accompanying Transmittal Letter requests that the USPTO "Please charge any additional fees required by this paper or credit any overpayment in the manner authorized above," but no reference to a specific deposit account or other source of funds is made.

The instant renewed petition includes authorization "to charge any required fees to Deposit Account No. 502191." In view of this authorization, the basic national fee and the petition fee are being charged to said account, and requirements (1) and (2) are satisfied.

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 inventor and a surcharge under 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: June 11, 2008

Cindy Yang
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, NY 10036-2714

Patent No: 7,358,338 B2
Application No: 10/507,156
Applicant: Tadatake Oku
Issued: April 15, 2008
Title: **HEME PEPTIDE**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

In the title, it is the practice to exclude words such as "Improvements in", "New", "Novel", etc., from the printed patent.

In view of the foregoing, your request in this matter is hereby **denied.**

Correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Mary Digg, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patton Boggs LLP/ Johnson & Johnson
8484 Westpark Drive
Suite 900
McLean VA 22102

MAILED

JUN 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Emelen et al.	:	
Application No. 10/507159	:	ON APPLICATION FOR
Filing or 371(c) Date: 09/08/2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
026038.0274PTUS	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b), filed March 12, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent is 1623 days, not 990 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment[1]. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

[1] Petitioner's note that the 35 U.S.C. § 371 National Stage Commencement date (filing date) is September 8, 2004. However, the commencement date is the date 30 months from the earliest priority date claimed in the international application. See 37 CFR § 1.491. (The commencement date may be earlier than 30 months where (1) an applicant expressly requested early commencement, and completed all requirements under 35 U.S.C. 371(c), or (2) Demand was timely filed requesting a change in commencement from 20 to 30 months. Neither is applicable here).

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[2].

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 the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

---

[2] 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.

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

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA, PA 19103-6996

Mail Date: 04/20/2010

Applicant	: Lee Underwood	: DECISION ON REQUEST FOR
Patent Number	: 7578416	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,166	: OF WYETH
Filed	: 09/09/2004	:
		:

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

2 8 JUL 2009

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of BORSI et al	:	
U.S. Application No.: 10/507,178	:	
PCT Application No.: PCT/IB2003/001458	:	
Int. Filing Date: 11 March 2003	:	DECISION
Priority Date Claimed: 11 March 2002	:	
Attorney Docket No.: ELLIS-0001	:	
For: ANTIBODIES DERIVED ROM ANTI ED-B	:	
L19 AND TARGETING TUMOR VASCULATURE	:	

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 September 2007.

BACKGROUND

On 11 March 2003, applicant filed international application PCT/IB2003/001458, which claimed priority of an earlier United States application filed 11 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2004.

On 10 September 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 29 March 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, *inter alia*, a sequence listing must be filed.

On 31 May 2005, applicant filed a sequence listing.

On 12 February 2007, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which indicated that a new sequence listing must be filed.

On 13 March 2007, international application PCT/IB2003/001458 became abandoned as to the United States for failure to timely respond to the Notification to Comply.

On 21 September 2007, 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 reply. Specifically, the sequence listing could not be accepted.[1]

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 DISMISSED without prejudice

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

[1] See attached sequence listing error report.

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

ATTACHMENT: sequence listing error report

==========
Sequence Listing could not be accepted.
If you need help call the Patent Electronic Business Center at (866) 217-9197 (toll free).
Reviewer: markspencer
Timestamp: Tue Oct 16 14:35:46 EDT 2007
==========

****
Reviewer Comments:
Please remove all line headers from the sequence listing.

Example:
<120> TITLE OF INVENTION: Antibodies Derived from Anti ED-B L19 and Targeting Tumor Vasculature

Remove TITLE OF INVENTION:.
****

Validated By CRFValidator v 1.0.3

Application No: 10507178 Version No: 1.0

Input Set:

Output Set:

Started: 2007-09-25 13:26:43.538
Finished: 2007-09-25 13:26:43.988
Elapsed: 0 hr(s) 0 min(s) 0 sec(s) 450 ms
Total Warnings: 7
Total Errors: 0
No. of SeqIDs Defined: 15
Actual SeqID Count: 15

Error code		Error Description
W	213	Artificial or Unknown found in <213> in SEQ ID (7)
W	213	Artificial or Unknown found in <213> in SEQ ID (8)
W	213	Artificial or Unknown found in <213> in SEQ ID (9)
W	213	Artificial or Unknown found in <213> in SEQ ID (10)
W	213	Artificial or Unknown found in <213> in SEQ ID (11)
W	213	Artificial or Unknown found in <213> in SEQ ID (12)
W	213	Artificial or Unknown found in <213> in SEQ ID (13)

<110> APPLICANT: Borsi, Laura
Carnemolla, Barbara
Balza, Enrica
Castellani, Patrizia
Zardi, Luciano
Friebe, Matthias
Hilger, Christoph-Stephan
<120> TITLE OF INVENTION: Antibodies Derived from Anti ED-B L19 and Targeting Tumor Vasculature
<130> FILE REFERENCE: Ellis-0001
<140> CURRENT APPLICATION NUMBER: US/10/507,178
<141> CURRENT FILING DATE: 2004-09-10
<150> PRIOR APPLICATION NUMBER: PCT/IB03/01458
<151> PRIOR FILING DATE: 2003-03-11
<150> PRIOR APPLICATION NUMBER: US 60/363,045
<151> PRIOR FILING DATE: 2002-03-11
<160> NUMBER OF SEQ ID NOS: 13
<170> SOFTWARE: PatentIn version 3.1

<210> SEQ ID NO 1
<211> LENGTH: 5
<212> TYPE: PRT
<213> ORGANISM: Homo sapiens
<400> SEQUENCE: 1
Ser Phe Ser Met Ser
1 5

<210> SEQ ID NO 2
<211> LENGTH: 17
<212> TYPE: PRT
<213> ORGANISM: Homo sapiens
<400> SEQUENCE: 2
Ser Ile Ser Gly Ser Ser Gly Thr Thr Tyr Tyr Ala Asp Ser Val Lys
1 5 10 15
Gly

<210> SEQ ID NO 3
<211> LENGTH: 7
<212> TYPE: PRT
<213> ORGANISM: Homo sapiens
<400> SEQUENCE: 3
Pro Phe Pro Tyr Phe Asp Tyr
1 5

<210> SEQ ID NO 4
<211> LENGTH: 12
<212> TYPE: PRT
<213> ORGANISM: Homo sapiens
<400> SEQUENCE: 4
Arg Ala Ser Gln Ser Val Ser Ser Ser Phe Leu Ala
1 5 10

<210> SEQ ID NO 5
<211> LENGTH: 7
<212> TYPE: PRT
<213> ORGANISM: Homo sapiens
<400> SEQUENCE: 5
Tyr Ala Ser Ser Arg Ala Thr

1 5

<210> SEQ ID NO 6
<211> LENGTH: 10
<212> TYPE: PRT
<213> ORGANISM: Homo sapiens
<400> SEQUENCE: 6
Cys Gln Gln Thr Gly Arg Ile Pro Pro Thr
1 5 10

<210> SEQ ID NO 7
<211> LENGTH: 4
<212> TYPE: PRT
<213> ORGANISM: Artificial sequence
<220> FEATURE:
<223> OTHER INFORMATION: Linker peptide
<400> SEQUENCE: 7
Gly Gly Ser Gly
1

<210> SEQ ID NO 8
<211> LENGTH: 35
<212> TYPE: DNA
<213> ORGANISM: Artificial sequence
<220> FEATURE:
<223> OTHER INFORMATION: Primer
<400> SEQUENCE: 8
gtgtgcactc ggaggtgcag ctgttggagt ctggg 35

<210> SEQ ID NO 9
<211> LENGTH: 36
<212> TYPE: DNA
<213> ORGANISM: Artificial sequence
<220> FEATURE:
<223> OTHER INFORMATION: Primer
<400> SEQUENCE: 9
gcctccggat ttgatttcca ccttggtccc ttggcc 36

<210> SEQ ID NO 10
<211> LENGTH: 33
<212> TYPE: DNA
<213> ORGANISM: Artificial sequence
<220> FEATURE:
<223> OTHER INFORMATION: Primer
<400> SEQUENCE: 10
ctcgtgcact cgcaggtgca gctgcaggag tca 33

<210> SEQ ID NO 11
<211> LENGTH: 30
<212> TYPE: DNA
<213> ORGANISM: Artificial sequence
<220> FEATURE:
<223> OTHER INFORMATION: Primer
<400> SEQUENCE: 11
ctctccggac cgtttgatct cgcgcttggt 30

<210> SEQ ID NO 12

<211> LENGTH: 33
<212> TYPE: DNA
<213> ORGANISM: Artificial sequence
<220> FEATURE:
<223> OTHER INFORMATION: Primer
<400> SEQUENCE: 12
tggtgtgcac tcggaaattg tgttgacgca gtc 33

<210> SEQ ID NO 13
<211> LENGTH: 30
<212> TYPE: DNA
<213> ORGANISM: Artificial sequence
<220> FEATURE:
<223> OTHER INFORMATION: Primer
<400> SEQUENCE: 13
ctctcgtacg tttgatttcc accttggtcc 30

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

0 1 MAR 2010

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of BORSI et al	:	
U.S. Application No.: 10/507,178	:	
PCT Application No.: PCT/IB2003/001458	:	
Int. Filing Date: 11 March 2003	:	DECISION
Priority Date Claimed: 11 March 2002	:	
Attorney Docket No.: ELLIS-0001	:	
For: ANTIBODIES DERIVED ROM ANTI ED-B	:	
L19 AND TARGETING TUMOR VASCULATURE	:	

This is in response to applicant's renewed petition under 37 CFR 1.137(b) filed 21 September 2007.

BACKGROUND

On 11 March 2003, applicant filed international application PCT/IB2003/001458, which claimed priority of an earlier United States application filed 11 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2004.

On 10 September 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 29 March 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, *inter alia*, a sequence listing must be filed.

On 31 May 2005, applicant filed a sequence listing.

On 12 February 2007, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which indicated that a new sequence listing must be filed.

On 13 March 2007, international application PCT/IB2003/001458 became abandoned as to the United States for failure to timely respond to the Notification to Comply.

On 21 September 2007, applicant filed a petition under 37 CFR 1.137(b).

On 28 July 2009, this Office mailed a decision dismissing the 21 September 2007 petition.

On 11 September 2009, applicant filed the present renewed petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

Applicant has previously satisfied items (2)-(4) above.

With regard to item (1), applicant has not provided the required reply. Specifically, a proper sequence listing in computer readable form has not been supplied as set forth in the decision mailed 28 July 2009. The petition states that the sequence listing filed 21 September 2007 does not contain any headers. However, the submitted sequence listing in computer readable form clearly shows headers.[1] The petition further states that applicant never received the sequence listing error report dated 16 October 2007. However, the application was already abandoned at the time the error report was generated. Furthermore, the error report was generated in response to the sequence listing in computer readable form that was submitted with the initial petition to revive under 37 CFR 1.137(b). Thus, the fact that applicant purportedly never received the error report is irrelevant to the abandonment of the application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

---

[1] See the attached printout of the sequence listing in computer readable form.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail 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.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

ATTACHMENT: printout of the sequence listing in computer readable form

<110> APPLICANT: Borsi, Laura
Carnemolla, Barbara
Balza, Enrica
Castellani, Patrizia
Zardi, Luciano
Friebe, Matthias
Hilger, Christoph-Stephan
<120> TITLE OF INVENTION: Antibodies Derived from Anti ED-B L19 and Targeting Tumor Vasculature
<130> FILE REFERENCE: Ellis-0001
<140> CURRENT APPLICATION NUMBER: US/10/507,178
<141> CURRENT FILING DATE: 2004-09-10
<150> PRIOR APPLICATION NUMBER: PCT/IB03/01458
<151> PRIOR FILING DATE: 2003-03-11
<150> PRIOR APPLICATION NUMBER: US 60/363,045
<151> PRIOR FILING DATE: 2002-03-11
<160> NUMBER OF SEQ ID NOS: 13
<170> SOFTWARE: PatentIn version 3.1

<210> SEQ ID NO 1
<211> LENGTH: 5
<212> TYPE: PRT
<213> ORGANISM: Homo sapiens
<400> SEQUENCE: 1
Ser Phe Ser Met Ser
1 5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

MAR 2 1 2007

OFFICE OF PETITIONS

In re Application of
Widera et al.
Application No. 10/507,179
Filed: February 25, 2005
For: METHOD FOR THE TRANSMISSION OF MEASURED DATA FROM A MEASURING COMPUTER TO A CONTROL COMPUTER IN A MEASURING SYSTEM
Attorney Docket No: 520.1045
Pub. No.: US 2006/0059254 A1
Pub. Date: March 16, 2006

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on April 13, 2006 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication fails to list Cornelius Heidemann as an inventor on the front page of the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request does not identify a material mistake in the publication made by the Office. The error in omitting the inventor's name on the front page of the publication is an Office error, but it is not a material error under 37 CFR 1.221(b). The error in the inventorship does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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] 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).

1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

26 SEP 2005

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In re Application of
BETHUNE et al.
U.S. Application No. 10/507,180
PCT No.: PCT/EP03/50055
Int. Filing Date: 11 March 2003
Priority Date: 11 March 2002
Attorney Docket No.: TIP0028US/PCT
For: SMALL MOLECULE ENTRY INHIBITORS

DECISION ON PETITION

This decision is in response to applicants' "Petition to Correct Inventorship (37 CFR 1.48(a))" filed 03 August 2005 which is being treated as request for correction of inventorship under 37 CFR 1.497(d).

BACKGROUND

On 11 March 2003, applicants filed international application PCT/EP03/50055 which claimed a priority date of 11 March 2002. The published international application named: Marie-Pierre T.M.M.G. De Buthune; Sandra De Meyer; Kurt Hertogs; Rong Jian Lu; Lieve Emma Jan Michiels; Abdellah Tahri; and Dong Xie as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 11 September 2004.

On 09 September 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; 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 31 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 indicated that a declaration executed by Michael Eissenstat had not been submitted and that name of the fourth inventor was different than that on the PCT Request. The notification set a two-month time limit in which to respond.

On 03 August 2005, applicants filed a "Petition to Correct Inventorship (37 CFR 1.48(a))." The declaration submitted with the petition was executed by: Marie-Pierre

T.M.M.G. De Buthune; Sandra De Meyer; Kurt Hertogs; Rong Jian Lu; Lieve Emma Jan Michiels; Abdellah Tahri; Dong Xie; and Michael Eissenstat.

DISCUSSION

A. Sequence Listing

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 31 March 2005 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. 1.821- 825. Applicants state that the instant application does not contain any nucleotide or amino acid sequences and no sequence listing is required. As such, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 31 March 2005 is vacated in part.

B. Request under 37 CFR 1.497(d)

Applicants request to add Michael Eissenstat 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 request under 37 CFR 1.497(d) or a showing that a 92bis change was made prior to the National stage filing is required. In the instant case, a Notification of the Recording of a Change (Form PCT/IB/306) has been forwarded by the International Bureau indicating that Michael Eissenstat has been added as an applicant/inventor prior to entering into the national stage in the United States of America. Additionally, a Notification of the Recording of a Change (Form PCT/IB/306) has been forwarded by the International Bureau indicating that the correct order of the fourth inventor's name is Rong Jian Lu.

Therefore, the declaration submitted on 03 August 2005 and executed by: Marie-Pierre T.M.M.G. De Buthune; Sandra De Meyer; Kurt Hertogs; Rong Jian Lu; Lieve Emma Jan Michiels; Abdellah Tahri; Dong Xie; and Michael Eissenstat is accepted.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.497(d) is **DISMISSED** as moot.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 21, 2007

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No./10/507242 patent no.7255919

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER

SPE

1794
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

2 6 NOV 2007

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of:	:	
LIATARD, Yves, et al.	:	DECISION
U.S. Application No.: 10/507,244	:	
PCT No.: PCT/FR2002/000883	:	
International Filing Date: 12 March 2002	:	
Priority Date: None	:	
Atty Docket No.: 4444-044	:	
For: DEVICE FOR SURFACE TREATMENT OF OBJECTS WITH REDUCED SIZE AND IMPROVED ERGONOMICS	:	

This decision is issued in response to the "Resubmission Of Response to Notice Of Missing Requirements" filed 10 January 2006, treated herein as a petition under 37 CFR 1.8(b) to confirm the timely filing of a response to the Notification Of Missing Requirements, as well as the "Request For Corrected Filing Receipt" filed 12 April 2006 and the "Request For Refund" filed 20 September 2006. No petition fee is required.

BACKGROUND

On 12 March 2002, applicants filed international application PCT/FR2002/000883. The international application did not claim an earlier priority date, and it designated the United States. On 18 September 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 international filing date, i.e., 12 September 2004.

On 10 September 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 25 February 2005, 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, the surcharge for filing this declaration later than thirty months after the priority date, and additional claims fees were required were required.

On 10 January 2006, applicants filed the "Resubmission Of Response to Notice Of Missing Requirements" considered herein. This submission asserts that, on 14 March 2005, applicants filed via facsimile a response to the Notification Of Missing Requirements that included a preliminary amendment removing multiple dependent claims, an executed declaration, and a credit card payment for the required late-declaration surcharge. Copies of the materials purportedly filed on 14 March 2005 are included with applicants' 10 January 2006 submission.

On 08 February 2006, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied on 10 January 2006. On the same date, the USPTO mailed a filing receipt identifying the 35 U.S.C. 371(c) date as 10 January 2006.

On 12 April 2006, applicants filed the "Request For Corrected Filing Receipt" considered herein. This submission requests that the 35 U.S.C. 371(c) date be corrected to 14 March 2005, the date on which the response to the Notification Of Missing Requirements was purportedly first filed.

On 20 September 2006, applicants filed the "Request For Refund" considered herein. This submission asserts that applicants were charged the $65 late-declaration surcharge twice, and requests a refund of the duplicative fee.

DISCUSSION

1. Petition Under 37 CFR 1.8(b)

The application file does not contain the "Response To Notification Of Missing Requirements" and accompanying materials purportedly filed via facsimile on 14 March 2005.[1] The earliest copies of such materials present in the application file are the copies included with the "Resubmission Of Response to Notice Of Missing Requirements" filed 10 January 2006 (hereinafter "Resubmission").

The filing date of the Resubmission is later than the extendable deadline provided by the Notification Of Missing Requirements mailed 25 February 2005. Accordingly, in order for these materials to be considered a timely response to the Notification of Missing Requirements, as required to avoid abandonment, applicants must provide an acceptable showing that the materials were originally filed on 14 March 2005, as claimed.

Where, as here, applicant seeks to have missing correspondence filed by facsimile treated as timely filed, the applicable regulation is 37 CFR 1.8(b) (see MPEP section 512). 37 CFR 1.8(b) 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

[1] USPTO records do show that payment of the $65 surcharge for filing the declaration later than thirty months after the priority date was received on 14 March 2005.

> 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 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 that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission, or submission. 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. ...

With respect to item (1) above, the "Resubmission" was filed promptly after applicant became aware that the USPTO did not have evidence of receiving the original correspondence. Item (1) is therefore satisfied.

With respect to item (2) above, the present petition includes a copy of the previously transmitted correspondence, the first page of the correspondence itemizes the enclosed materials and bears a "Certification Of Facsimile Transmission." Item (2) is therefore satisfied.

With respect to item (3) above, the Resubmission includes a statement by counsel Allan M. Lowe that the Response to Notice of Missing Requirements and Preliminary Amendment were filed by facsimile on March 14 2005. However, Mr. Lowe is not the person who signed the "Certificate Of Facsimile Transmission" contained on the original correspondence. Section 512 of the MPEP 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 Resubmission does not include a statement by Mr. Lowe explaining how he has firsthand knowledge of the previous transmission. Moreover, although the Resubmission states that "a copy of the fax confirmation" is included, the application file does not include a copy of such fax confirmation.

Based on the above, the Resubmission does not satisfy the requirement of 37 CFR 1.8(b)(3). Accordingly, on the present record it cannot be concluded that the declaration and preliminary amendment included with the present petition were originally filed by facsimile on 14 March 2005 as a timely response to the Notification Of Missing Requirements.

It is noted that, absent a supplemental showing that satisfies the requirements of 37 CFR 1.8(b)(3), the present application will be considered abandoned for failure to file a timely response to the Notification Of Missing Requirements mailed 25 February 2005.

2. Request For Corrected Filing Receipt

The Request For Corrected Filing Receipt asserts that the materials included with the Resubmission was originally filed on 14 March 2005 filing date and that the 35 U.S.C. 371(c) date herein should therefore be corrected to 14 March 2005. However, as noted above, the earliest copy of the materials purportedly filed on 14 March 2005 present in the application file are those included with the Resubmission filed 10 January 2006. Should applicant make an acceptable showing under 37 CFR 1.8(b) (see discussion above), these materials can be treated as a timely response to the Notification of Missing Requirements pursuant to 37 CFR 1.8(a). However, as set forth in 37 CFR 1.8(a), the "actual date of receipt will be used for all other purposes." Thus, even if the materials included with the Resubmission are treated as timely filed under 37 CFR 1.8, the filing date for such materials for all other purposes, including the according of a date under 35 U.S.C. 371(c), is 10 January 2006, that is, the actual date of receipt of the first copy of such materials present in the application file. Applicants' request to have such materials accorded a filing date of 14 March 2005 is therefore appropriately dismissed.

3. Request For Refund

The Request for Refund seeks a refund of duplicative charges made by the USPTO for the $65 surcharge required for filing the declaration later than thirty months after the priority date. A review of the application file confirms that applicants were improperly charged more than once for this surcharge; however, USPTO records show that these duplicative charges were subsequently refunded to applicant. The Request For Refund is therefore now moot.

4. English Translation Of The International Application

A review of the English translation of the international application filed by applicants on 10 September 2004 reveals that this translation is defective. Specifically, applicants have not provided a translation into English of the nine original claims filed with the international application (instead, applicants have provided an English translation containing eight claims, which corresponds to the number of claims contained in the international application as amended under PCT Article 19). See MPEP section 1893.01(d):

> The translation must be a translation of the international application as filed or with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. A translation of less than all of the international application (e.g., a translation that fails to include a translation of text contained in the drawings or a translation that includes a translation of claims amended under PCT Article 19 or 34 but does not include a translation of the original claims) is unacceptable.

Applicants are required to provide an English translation of the original nine claims contained in the international application as filed. In addition, applicants must submit the processing fee for filing the English translation later than thirty months after the priority date.

CONCLUSION

The petition to confirm that the materials included with the "Resubmission Of Response to Notice Of Missing Requirements" filed 10 January 2006 were originally filed on 14 March 2005 as a timely response to the Notification of Missing Requirements is **DISMISSED** without prejudice.

The "Request For Corrected Filing Receipt" filed 12 April 2006, which requested that the 35 U.S.C. 371(c) date be corrected to 14 March 2005, is **DISMISSED** without prejudice.

The "Request For Refund" filed 20 September 2006 is **DISMISSED AS MOOT** based on the previous refund of the requested fees.

The English translation of the international application filed 10 September 2006 is defective for failure to include an English translation of the nine original claims contained in the international application.

The "Notification of Acceptance" (Form PCT/DO/EO/903) and filing receipt mailed 08 February 2006, based as they were on applicants' purported satisfaction of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) on 10 January 2006, are hereby **VACATED**.

Any request for reconsideration of the present decision must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include a proper response, that is, (1) the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above and in the MPEP; and (2) an English translation of the nine original claims contained in the international application.

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time are available under 35 U.S.C. 1.136(a).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,247	02/07/2005	Rein Tammik	9300100-2001- -	9091

7590 07/07/2008

Ronald R Santucci
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

EXAMINER
MERCIER, MELISSA S

ART UNIT	PAPER NUMBER
1615	

MAIL DATE	DELIVERY MODE
07/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RONALD R. SANTUCCI
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

JUL 0 7 2008

In re Application of:
Tammik, Rein
Serial No.: 10/507,247
Filed: February 7, 2005
Attorney Docket No.: 9300100-2001

: PETITION DECISION

This is in response to the petition presumably filed under 37 CFR § 1.182 on June, 10, 2008. In this petition, applicant requests withdrawal of the Notice of Appeal filed on March 10, 2008.

BACKGROUND

More recently, applicant filed a Notice of Appeal after a final Office action (the 'original' Notice of Appeal) with the appropriate fees on March 10, 2008. The Notice of Appeal was accompanied by a 'Reasons for Pre-Appeal Brief Request for Review' (first page following PTO/SB/31 page); however, the original Notice of Appeal was not accompanied by an appropriate Pre-Appeal Brief Review Request form: Form PTO/SB/33.

On June 10, 2008, applicant filed a second Notice of Appeal with the appropriate fees and concurrently filed the appropriate form for filing a Pre-Appeal Brief Review Request Form PTO/SB/33, as well as Reasons for Pre-Appeal Brief Request for Review.

On June 10, 2008, applicant additionally filed this petition, presumably under 37 CFR § 1.182 requesting the withdrawal of the original Notice of Appeal filed on March 10, 2008.

In this petition, applicant asserts that it was his intention to file Pre-Appeal Brief Review Request with a Pre-Appeal Brief Review Request Form PTO/SB/33 concurrently with the original Notice of Appeal filed on March 10, 2008; however, inadvertently omitted the PTO/SP/33 form. In support thereof, applicant points to the Reasons for Pre-Appeal Brief Request for Review filed concurrently with the original Notice of Appeal filed on March 10, 2008. Applicant seeks the withdrawal of the original Notice of Appeal in order for the Office to recognize the second Notice of Appeal filed on June 10, 2008 which was accompanied by an appropriate Appeal Brief Review Request form PTO/SB/33 in order to enable Applicants to conduct a Pre-Appeal Brief Review with the appropriate parties prior to filing an Appeal Brief.

The United States Patent and Trademark Office Official Gazette (OG) Notice of July 12, 2005, indicates that a Request for a Pre-Appeal Brief Review is to be filed by appropriate use of a

PTO/SB/33 Pre-Appeal Brief Review form. Additionally, the OG notice indicates that the Request for a Pre-Appeal Brief Review is to be filed concomitantly with a Notice of Appeal.

It is herein decided that Applicant's filing of Reasons for requesting a Pre-Appeal Brief Review concurrently with the original Notice of Appeal was a *Bona Fide* attempt to schedule a Pre-Appeal Brief Review; albeit an inappropriate attempt due to lacking the correct Pre-Appeal Brief Review form PTO/SB/33. Thus, Applicant's arguments presented in the petition are convincing that it was their intent to file an appropriate Pre-Appeal Brief Review form at the time the original Notice of Appeal was filed. Hence, Applicant's request to withdraw the original Notice of Appeal filed March 10, 2008 is hereby granted.

DECISION

The petition is **GRANTED.**

The original Notice of Appeal filed in this case on March 10, 2007 is hereby withdrawn and consequently rendered null and void. The Office acknowledges the timely filing of a Notice of Appeal on June 10, 2008 accompanied by an appropriate request by applicant for a Pre-Appeal Brief Review. This application will be forwarded to the examiner to schedule a Pre-Appeal Brief Review as requested by Applicant.

The $200.00 petition fee as required in 37 CFR 1.17(g) will be charged to Applicant's account No. 50-0320 as authorized.

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.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Jef D Boeke	: DECISION ON REQUEST FOR
Patent Number	: 7601489	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,252	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **705** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

13 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

Alice O. Carroll
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA. 01742-9133

In re Application of	:	
ARTHUR, et al.	:	
PCT No.: PCT/AU03/00300	:	DECISION ON PETITION
Application No.: 10/507,257	:	
Int. Filing Date: 13 March 2003	:	UNDER 37 CFR 1.497(d)
Priority Date: 13 March 2002	:	
Atty. Docket No.: 3170.1006-000	:	
For: ANNOTATION OF GENOME SEQUENCES	:	

This decision is in response to applicant's "Reply to Notification of Missing Requirements" filed 27 April 2005 in the United States Patent and Trademark Office (USPTO). For the reasons discussed below, the filing of the declaration is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 13 March 2003, applicant filed international application PCT/AU03/00300, which claimed priority of an earlier application filed 13 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 September 2004.

On 10 September 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 First preliminary amendment.

On 28 February 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months or by 32 months from the priority date whichever was later to respond.

On 27 April 2005, applicant filed the declaration discussed herein.

DISCUSSION

A review of the filed declaration finds that it does not comply with 37 CFR 1.497(a)-(b). Specifically, the filed declaration sets forth an additional inventor, Mathew Danger Traini who is not named in the international application. In order to proceed with national stage processing applicant is required to file either: 1) a submission under 37 CFR 1.497(d) requesting correction of the inventors named in the international application to include Mr. Traini, (2) a new declaration naming and signed by only Jonathan Wesley Arthur and Marc Wilkins accompanied by an acceptable explanation of the misnaming of the inventor on the present declaration, or (3) a showing that a change under PCT Rule 92bis was made prior to the National stage filing, i.e. a copy of form PCT/IB/306.

Applicant is advised that a request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As it is not clear at this time whether the additional inventor was added during processing of the international application, the required petition fee will not be charged to applicant's deposit account at this time.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Response to Decision Under 37 CFR 1.497(d)." 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

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

26 JAN 2006

Carol A. Egner
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

In re Application of	:	
ARTHUR, et al.	:	
Application No.: 10/507,257	:	
PCT No.: PCT/AU03/00300	:	COMMUNICATION
Int. Filing Date: 13 March 2003	:	
Priority Date: 13 March 2002	:	
Attorney Docket No.: 3170.1006-000	:	
For: ANNOTATION OF GENOME SEQUENCES	:	

This communication is in response to applicant's "Response to Decision on Petition Under 37 C.F.R. 1.497(d)" filed 04 August 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 May 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.497(d) concerning inventor Mathew Danger Traini. Applicant was afforded two months to file a response.

On 04 August 2005, applicant filed the present response accompanied by a petition for a one-month extension of time. With the submission of the petition and payment of the one-month extension of time fee the present response is considered timely filed.

DISCUSSION

Applicant's current submission satisfies the concern raised in the decision mailed 13 May 2005. Specifically, applicant has provided the USPTO with a copy of form PCT/IB/306 detailing the addition third listed inventor, Mathew Danger Traini during the international phase. As such, a review of the declarations filed 27 April 2005 finds that they comply with 37 CFR 1.497(a)-(b).

CONCLUSION

The application has an international filing date of 13 March 2003 under 35 U.S.C. 363 and will be given a date of **27 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.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Tomoo Mitsunaga	: DECISION ON REQUEST FOR
Patent Number	: 7570390	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/507,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1066** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

COPY MAILED

JUN 2 5 2007

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of Harald Michi et al. Application No. 10/507,276 Filed: March 10, 2005 Attorney Docket Number: 10191/3951 Title: CRUISE CONTROL SYSTEM HAVING A STOP & GO FUNCTION	: : : : : : :	DECISION ON PETITION UNDER 37 C.F.R. § 1.181(A)

This is a decision on the petition under 37 CFR § 1.181(a), filed May 1, 2007, to withdraw the holding of abandonment.

The petition under 37 C.F.R. § 1.181 is **DISMISSED**.

Background

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed August 14, 2006, which set a shortened statutory period for reply of three months. An after-final amendment was received on January 22, 2007, along with a three-month extension of time, and an advisory action was mailed on February 28, 2007. No further extensions of time under the provisions of 37 C.F.R §1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on February 15, 2007. A notice of abandonment was mailed on March 22, 2007.

Analysis

With the present petition, Petitioner has asserted that a response was submitted on January 16, 2007, together with a two-month extension of time[1], and as such, the indication that the present application went abandoned for failure to provide a timely and proper reply to the final Office action was erroneous.

However, as indicated above, the response that was received on January 22, 2007 was timely filed, but it was not a proper response; it failed to place the application in condition for allowance[2, 3].

It follows that since a proper reply was not submitted prior to the maximum extendable period of time, the application went abandoned by operation of law, pursuant to Rule § 1.135(a)[4].

As set forth in Rule § 1.135(b),

> Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment (emphasis added).

The notice of abandonment correctly asserted that the present application was held to be abandoned, due to "Applicant's failure to timely file a proper (emphasis added) reply to the Office letter mailed on 14 August 2006."

Conclusion

Any renewed petition under 37 C.F.R. § 1.181(a) must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted.

---

1 This appears to be a typographical error, as it is a three-month extension of time that was submitted.
2 See the advisory action of February 28, 2007 (a courtesy copy of this mailing has been included with this decision).
3 See also MPEP § 706.07(f) for a discussion on after-final practice.
4 "If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise."

The renewed petition should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.181(a)," and should only address the deficiencies noted in this decision.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§ 1.137(a) or (b). No assurance can be made that any remedy will be forthcoming.

Any response should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[5], hand-delivery[6], or facsimile[7].

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

Encl. Courtesy copy of the Advisory Action of February 28, 2007.

---

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,276	03/10/2005	Harald Michi	10191/3951	3860

26646 7590 02/28/2007
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER
MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Courtesy Copy

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/507,276	Applicant(s) MICHI ET AL.	
	Examiner Ronnie Mancho	Art Unit 3663	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

Courtesy Copy

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

JACK KEITH
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments drawn to the 112 issues are moot. The 112 rejections are withdrawn. Applicant's argument drawn to MPEP 2114 issues are not convincing because the examiner did not ignore any limitation in the claims. The controller in the prior art anticipates the limitations contrary to applicant's argument that the examiner does not cite where the controller is disclosed. The examiner had cited fig. 1 which clearly discloses a stop-and-go controller. In the prior art, the controller (columns 3-5, etc) determiines when the vehicle makes a turn during stop-and-go conditions for example. It determines a target angle relative to another vehicle, it further determines yaw similar to applicant's invention. The applicant's specification, on page 3 discloses that it is well known in the art to determine turn by the various methods in the prior art. It is further noted that the prior art, Joyce et al disclose the vehicle turning in fig. 3 and further discloses a GPS system known for detecting azimuth and turn angles of the vehicle. The prior art further anticipates applicant's structure and is capable of being programmed to perform the intended use limitations in applicant's invention. Applicant has not argued that the prior art controller cannot be programmed to perform the method limitations in applicant's claims as allowed by MPEP 2114.

Applicant's arguments
are drawn to method limitations within an apparatus claim. To overcome the rejection, the applicant will need to structurally define his apparatus over the prioir art.
The final rejection is proper and thus stand.

2/23/07

Courtesy Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

COPY MAILED

SEP 21 2007

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
Harald Michi et al.	:	
Application No. 10/507,276	:	DECISION ON RENEWED PETITION
Filed: March 10, 2005	:	UNDER
Attorney Docket Number:	:	37 C.F.R. § 1.181(A)
10191/3951	:	
Title: CRUISE CONTROL SYSTEM	:	
HAVING A STOP & GO FUNCTION	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.181(a), filed August 24, 2007, to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed August 14, 2006, which set a shortened statutory period for reply of three months. An after-final amendment was received on January 22, 2007, along with a three-month extension of time, and an advisory action was mailed on February 28, 2007. No further extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on February 15, 2007. A notice of abandonment was mailed on March 22, 2007.

An original petition under 37 C.F.R. § 1.181 was filed on May 1, 2007, where Petitioner asserted that an amendment was submitted on January 16, 2007, together with an extension of time. The original petition was dismissed via the mailing of a decision on June 25, 2007, as the amendment was not a proper response, since it failed to place the application in condition for allowance.

With this renewed petition, Petitioner has asserted that a notice of appeal was filed on February 12, 2007, along with a three-month extension of time. The electronic file has been reviewed, and a copy of this submission has not been located in the same.

Petitioner has provided a copy of this submission, and it is noted that it contains a certificate of mailing dated February 12, 2007, along with a request for a three-month extension of time.

Petitioner has further included a copy of a postcard receipt pursuant to MPEP § 503, which evinces the receipt of a "notice of appeal" and an "extension request" in the Office of Initial Patent Examination on February 14, 2007.

Moreover, Office records have been reviewed, and it is clear that both the fees that are associated with the filing of a notice of appeal and a three-month extension of time were charged to Petitioner's Deposit Account on February 15, 2007 and February 16, 2007.

Considering the facts and circumstances of the delay at issue, as set forth on renewed petition, it is concluded that Petitioner has met his burden of establishing that a proper response was timely submitted, and was subsequently misplaced in the Office.

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 notice of appeal that was submitted with the present petition can be processed.

The Notice of Appeal filed on August 24, 2007, has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the mailing date of this decision.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

08 NOV 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Renner Otto Boisselle & Sklar LLP
1621 Euclid Avenue
Nineteenth Floor
Cleveland, OH 44115

In re Application of FRAMPTON et al. U.S. Application No.: 10/507,278 PCT No.: PCT/GB03/00942 Int. Filing Date: 06 March 2003 Priority Date: 13 March 2002 Attorney Docket No.: DYOUP0277US For: FABRICATION OF MICROSTRUCTURED OPTICAL FIBRE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 01 August 2005 to accept the application without the signature of joint-inventor, Kai Ming Kiang. The $200 petition fee will be charged to Deposit Account no. 18-0988.

BACKGROUND

On 06 March 2003, applicants filed international application PCT/GB03/00942 which claimed a priority date of 13 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 September 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 13 September 2004.

On 10 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 28 February 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 01 August 2005, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Item (1); (3); and (4) have been satisfied.

Regarding item (2) above, petitioner states that Kai Ming Kiang 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.

Petitioner states that Kai Ming Kiang has refused to sign the application. A review of the present petition and the accompanying papers reveals that applicants have not satisfied item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers to Kai Ming Kiang. The Declaration of Don W. Bulson states that a copy of the application papers were sent (via electronic mail) to Kai Ming Kiang on July 12, 2005. A copy of the cover letter has been provided. However,

petitioner fails to include evidence to demonstrate that the materials were actually received by the nonsigning inventor at his last known address. Where the Office is being asked to accept the silence of the nonsigning inventor as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant.

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 Kai Ming Kiang, 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.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

09 JAN 2006

Renner Otto Boisselle & Sklar LLP
1621 Euclid Avenue
Nineteenth Floor
Cleveland, OH 44115

In re Application of :
FRAMPTON et al. :
U.S. Application No.: 10/507,278 :
PCT No.: PCT/GB03/00942 : DECISION ON PETITION
Int. Filing Date: 06 March 2003 :
Priority Date: 13 March 2002 :
Attorney Docket No.: DYOUP0277US :
For: FABRICATION OF :
MICROSTRUCTURED OPTICAL FIBRE

This decision is in response to applicants' "Re-submission of Supplemental Reply to Notification of Missing Requirements" filed 09 December 2005 to accept the application without the signature of joint-inventor, Kai Ming Kiang.

BACKGROUND

On 06 March 2003, applicants filed international application PCT/GB03/00942 which claimed a priority date of 13 March 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 September 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 13 September 2004.

On 10 September 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 28 February 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 01 August 2005, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 08 November 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 09 December 2005, applicants filed "Re-submission of Supplemental Reply to Notification of Missing Requirements" which included: a copy of "Supplemental Reply to

Notification of Missing Requirements;" a copy of the declaration and power of attorney filed 18 August 2005; and a post card receipt for application no. 10/507,278 dated 18 August 2005.

DISCUSSION

A.. Petition under 37 CFR 1.181

Applicants state that a declaration and power of attorney was received at the United States Patent and Trademark Office on 18 August 2005. A review of the present application reveals that the declaration and power of attorney filed 18 August 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.
>
> 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 . . .
>
> . . 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 . . .

The copy of the postcard receipt submitted with the petition bearing a date stamp "JC18 Rec'd PCT/PTO 18 AUG 2005" did not clearly itemize the contents being submitted and will not serve as prima facie evidence. The postcard receipt indicates that an IDS/1449/Refs and a Supplemental Reply to Notification of Missing Requireements as being filed. However, the postcard receipt does not indicate that a declaration and power of attorney was submitted on 18 August 2005. The Office procedure for any papers not present in a package that were specifically identified on a postcard receipt is for the postcard to be annotated to indicate that papers were not received. In the present instance, the declaration/power of attorney was not itemized on the postcard, thus, a hand written entry regarding the nonreceipt of PCT Request would not be required under MPEP 503 since the declaration/power of attorney was not identified on the postcard receipt. Hence,

the postcard receipt is not prima facie evidence of what was filed on 18 August 2005 and the declaration cannot be considered as filed on 18 August 2005.

B. Renewed Petition under 37 CFR 1.47(a)

The "Re-submission of Supplemental Reply to Notification of Missing Requirements" filed 09 December 2005 will be treated as a Renewed Petition Under 37 CFR 1.47(a). As stated above, in a decision dated 28 October 2004, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Kai Ming Kiang, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 09 December 2005 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Kai Ming Kiang. The declaration is acceptable under 37 CFR 1.497. For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT.

C. Request for Refund under 37 CFR 1.26

Applicants request a refund of the $200 petition fee submitted on 01 August 2005. Applicants state in the present submission that the duly executed declaration executed by the previous nonsigning inventor was submitted on August 16, 2005 and this rendered the petition under 37 CFR 1.47(a) as moot. 37 CFR 1.26(a) states that the Director may refund any fee paid by mistake or in excess of that required. In this case, the payment of the petition fee cannot be considered as a fee paid by mistake or in excess since the petition was considered a response to the Notification of Missing Requirements mailed 28 March 2005. Therefore, a refund of the petition fee would not be proper.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice. The renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT and the request for refund under 37 CFR 1.26 is **DISMISSED** without prejudice.

The application has an international filing date of 06 March 2003 under 35 U.S.C. 363 and a date of **09 December 2005** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

06 JUL 2005

#9

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Stephen B Maebius
FOLEY AND LARDNER
3000 K Street, N.W.
Suite 500
Washington DC 20007-5109

In re Application of	:	DECISION ON REQUEST
Jean-Christophe LEROUX et al	:	
Application No.: 10/507,281	:	
PCT No.: PCT/FR03/00797	:	
Int. Filing Date: 12 March 2003	:	TO WITHDRAWAL AS
Priority Date: 12 March 2002	:	
Attorney's Docket No.: 37991-0033	:	
For: COMPOSITION HAVING GELLING PROPERTIES	:	
FOR THE PROLONGED DELIVERY OR BIOACTIVE	:	ATTORNEY OF RECORD
SUBSTANCES	:	

This is in response to the "REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT" filed 06 January 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.

Accordingly, all future correspondence will be mailed to FOLEY AND LARDNER.

DECISION

In view of the above discussion, counsel's Request for Withdrawal is **GRANTED**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 373-1810

02 MAY 2006

H8

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of		
INGEMARSSON, Anders	:	
U.S. Application No. 10/507,292	:	
PCT No.: PCT/SE03/00408	:	PETITION UNDER
Int. Filing Date: 13 March 2003	:	37 CFR 1.182
Priority Date: 12 March 2002	:	
Attorney Docket No.: 12400-019	:	
For: A SEAT-BELT ARRANGEMENT	:	
	:	

This decision is issued in response to applicants' "Response to Notification of Defective Response" filed 19 August 2005, which is being treated as a Petition under 37 CFR 1.182 to change an inventor's name. The petition fee of **$400** has been charged to counsel's Deposit Account No. 23-1925.

BACKGROUND

On 13 March 2003, applicant filed international application PCT/SE03/00408 which claimed a priority date of 12 March 2002. The international application named Anders Ingemarsson as applicant/inventor. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 12 September 2004.

On 08 September 2004, applicant 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); the international application; and a preliminary amendment.

On 14 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 June 2005, applicant filed "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office."

On 23 June 2005, the United Stated Designated/Elected Office mailed a Notification of Defective Response indicating that the oath or declaration filed 13 June 2005 was not in compliance with 37 CFR 1.497(a)-(b).

On 19 August 2005, applicant filed "Response to Defective Response" which included a declaration executed by Anders Lenning, formerly known as Anders Ingemarsson.

DISCUSSION

A review of the declaration reveals that applicant/inventor has changed his/her name. In this situation, 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. As noted above, the $400 petition fee has been charged to counsel's Deposit Account No.23-1925, and thus item (1) has been satisfied.

With regards to item (2), applicant has not provided 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. Therefore, item (2) has not been satisfied, and thus the petition may not be properly granted at this time.

Further, the declaration filed on 19 August 2005 is illegible due to the facsimile/copying process. Therefore, a newly executed declaration of the inventor is required.

CONCLUSION

For the reasons above, the petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

A proper response must include 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. 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
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

#15

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

13 JUL 2006

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of	:	
INGEMARSSON, Anders	:	
U.S. Application No. 10/507,292	:	
PCT No.: PCT/SE03/00408	:	PETITION UNDER
Int. Filing Date: 12 March 2003	:	37 CFR 1.182
Priority Date: 12 March 2002	:	
Attorney Docket No.: 12400-019	:	
For: A SEAT-BELT ARRANGEMENT	:	
	:	

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.182" filed 03 July 2006. Applicants are requesting to change the name of the sole inventor from Anders Ingemarsson to Anders Lenning due to marriage. The petition was accompanied by an affidavit signed by Anders Lenning using both her former name and present name. The petition fee under 37 CFR 1.17 has been submitted.

DISCUSSION

The Manual of Patent of Examining Procedure at §605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and 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 03 July 2006 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Anders Ingemarsson to Anders Lenning is **GRANTED**.

This application will be given an international filing date of 12 March 2003 and a date of **03 July 2006** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

20 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Wesley W. Whitmyer
St. Onge Steward & Reens LLC
986 Bedford Street
Stamford, CT 06905-5619

In re Application of	:	
SEVERINSSON, Lars	:	
U.S. Application No.: 10/507,296	:	DECISION ON PETITION
Filing Date: 09 September 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 3370-P0084A	:	
For: A DISC BRAKE	:	

This decision is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally under CFR 1.137(b)" filed 09 September 2004 in the above-captioned application. The petition fee under 37 CFR 1.17(m) has been paid.

BACKGROUND

On 21 February 2003, applicant filed international application PCT/SE03/00290 which claimed priority of an earlier application filed 21 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, 21 August 2004.

On 09 September 2004, applicant 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), applicant has supplied the proper reply in the form of the filing of a continuation application.

As to item (2), the petition fee has been submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date 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.

CONCLUSION

Applicant's petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/SE03/00290 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.

This application is being returned to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

COPY MAILED

MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Horst Zimmermann, et al.	:	
Application No. 10/507,306	:	DECISION GRANTING PETITION
Filed: May 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60291.25	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 28, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 19, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

10 JUN 2005

UNITED STATES PATENT and TRADEMARK OFFICE

#4

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Tim Tingkang Xia, Esq.
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Street, N.E.
Atlanta, Georgia 30326-1044

In re Application of	:	DECISION ON
WEHSRSPOHN et al	:	
Application No.: 10/507,311	:	
PCT No.: PCT/EP03/76702	:	
Int. Filing Date: 11 March 2003	:	PETITION UNDER
Priority Date: 11 March 2002	:	
Attorney's Docket No.: 14836-46755	:	
For: METHOD FOR PRODUCING HOLLOW	:	
FIBRES	:	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 25 January 2005.

BACKGROUND

On 11 March 2003, this international application was filed, claiming an earliest priority date of 11 March 2002.

On 09 September 2004, applicants filed the Transmittal letter for entry into the national stage in the United States. The basic national fee was not provided at that time. An executed declaration was submitted on 11 March 2003 at the same time as the Request (PCT/RO/101).

On 18 January 2005, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant has failed to provide the full U.S. Basic National Fee by 30 months.

On 25 January 2005, applicants filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, basic national fee and the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a

continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date (c)(1), (c)(2), and (c)(4) of this application is 25 January 2005.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DOWELL & DOWELL P.C.
103 ORONOCO ST.
SUITE 220
ALEXANDRIA VA 22314

MAILED

APR 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Cunningham et al.	:	
Application No. 10/507,319	:	DECISION ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. 14819NP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2010, 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 February 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed November 16, 2009. Accordingly, the date of abandonment of this application is February 17, 2010. A Notice of Abandonment was mailed February 26, 2010.

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 $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

COPY MAILED

JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Six, Jean-Claude	:	
Application No. 10/507,332	:	ON PETITION
Filed: September 10, 2004	:	
Attorney Docket No. FR 020019	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 22, 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 Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed on October 12, 2006.

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

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

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 06/02/2010

Applicant	: William V. Glenn Jr.	: DECISION ON REQUEST FOR
Patent Number	: 7640050	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/507,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **847** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED

JAN 11 2010

OFFICE OF PETITIONS

In re Application of	:	
Fumitsugu Fukuyo et al	:	
Application No. 10/507,340	:	DECISION GRANTING PETITION
Filed: September 10, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 46884-5319 (210779)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 7, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 20, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

MAILED

JUL 09 2007

Technology Center 2100

In re Application of:
Renaldo Undasan
Application No. 10/507,341
Filed: September 10, 2004
For: Previewing Documents on a Computer System

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed June 06, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Finality of the rejection mailed March 6, 2007.

On filed June 06, 2007, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed March 6, 2007. In the petition, applicant's counsel alleged that a new grounds of rejection of claim 1 was introduced for the very first time on this claim while the amendment only moved features from claim 6 word for word into claim 1; thus rendering the Final Office action premature.

A review of the amendment filed December 8th, 2006, indicates that the amendment does not justify a new grounds of rejection nor was an IDS filed with a fee and a certificate. Therefore the finality of the March 6, 2007 office action is improper and hereby withdrawn.

Accordingly, the petition is **Granted.**

The period for response continues to run from the now non-final office action Mailed March 6, 2007.

Any inquiry concerning this decision should be directed to Tod Swann whose telephone number is (571) 272-3612.

Wendy Garber, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

20 DEC 2005

Todd W. Wright
Morrison & Foerster
19900 Macarthur Blvd.
Irvine, CA 92612-2445

In re Application of BLANK Serial No.: 10/507,347 PCT No.: PCT/EP03/02708 Int. Filing Date: 14 March 2003 Priority Date: 14 March 2002 Atty Docket No.: 480052000600 For: METAL STRUCTURE COMPATIBLE WITH MRI IMAGING, AND THE METHOD OF MANUFACTURING SUCH A STRUCTURE	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Petition to Withdraw Holding of Abandonment - Notification of Missing Requirements Not Received" filed on 14 December 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 14 March 2003, applicant filed international application PCT/EP03/02708, which claimed priority of an earlier application filed 14 March 2002. The thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 14 September 2004.

On 10 September 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a preliminary amendment.

On 22 March 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 a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. In addition, applicant was advised that an additional claim fee of $50.00 was due. Applicant was afforded two months to file the proper response.

On 14 December 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Applicant's petition and accompanying papers filed 14 December2005 satisfy the items above and it is proper to grant applicant's petition at this time showing that the "Notification of Missing Requirements" mailed 22 March 2005 was never received by applicant. The holding of abandonment in this application is withdrawn.

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.

CONCLUSION

Applicant's Petition Under 37 CFR 1.181 is **GRANTED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision including the re-issuance of a new "Notification of Missing Requirements" (Form PCT/DO/EO/905).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

COPY MAILED

JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
BLANK, Theimo A.	:	
Application No. 10/507,347	:	DECISION ON PETITION
Filed: January 11, 2006	:	TO WITHDRAW
Attorney Docket No. **480052000600**	:	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 23, 2008.

The request is not approved because it is **Moot**.

A review of the file record indicates that the power of attorney to RUTAN & TUCKER, LLP. has been revoked by the Assignee of the patent application on May 16, 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: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

COPY MAILED

NOV 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Kodama et al.	:	
Application No. 10/507,350	:	DECISION ON
Filed: September 13, 2004	:	PETITION
Atty Docket No. 8003-1037	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181 filed August 9, 2006.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed January 30, 2006. No reply having been received, the above-identified application became abandoned on May 1, 2006. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

In response, applicant filed the instant petition, asserting that the Office action was never received.

A review of the application file reveals no irregularities in the mailing of the Office action mailed January 30, 2006. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that

the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2877 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for mailing of a new Notice of Allowance and Fee(s) Due (and mailing of a new Notice of Allowability) and for restarting of the period for reply to both Notices.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

03 NOV 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

WHITE & CASE LLP
Patent Department
1155 Avenue Of The Americas
New York, NY 10036

In re Application of:	:	
ABRAHAMSON, Christoffer, et al.	:	DECISION ON REFUND REQUEST
Application No.: 10/507,356	:	
PCT No.: PCT/GB03/01052	:	
Int. Filing Date: 12 March 2003	:	
Priority Date: 14 March 2002	:	
Attorney Docket No.: 1103326-0778	:	
For: METHOD OF ANALYZING A	:	
PHARMACEUTICAL SAMPLE	:	

This decision is issued in response to applicants' "Request For Fee Refund" filed 23 June 2005. No petition fee is required.

BACKGROUND

On 10 September 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, among other materials, a Preliminary Amendment. The transmittal letter expressly instructed the United States Designated/Elected Office (DO/EO/US) to "charge the basic filing fee, excess independent claims fee (if applicable), excess total claims fee (if applicable), and multiple dependent claim fee (if applicable) to Deposit Account No. 23-1703" (as well as "any additional fees which may be required").

The application, as amended by the Preliminary Amendment filed 10 September 2004, included a multiple dependent claim and 62 total claims.

Based on applicants' 10 September 2004 authorization, the DO/EO/US charged Deposit Account No. 23-1703 the $920 basic national fee and the $290 fee for inclusion of a multiple dependent claim. The Deposit Account was not, however, charged the fee for the 42 excess total claims contained in the application.

On 06 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/903) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the $130 surcharge for filing the oath or declaration later than thirty months after the priority date, and $2100 in additional claims fees.

On 02 May 2005, applicants filed a response to the Notification Of Missing Requirements that included an executed declaration, the authorization to charge Deposit Account No. 23-1703 the required $130 surcharge (and "any additional fees which may be due"), and a second

Preliminary Amendment. With respect to the requirement of $2100 for extra claims fees, applicants noted that their original submission of 10 September 2004 expressly authorized a charge to Deposit Account No. 23-1703 for any excess total claims fees that were applicable. Applicants go on to state that any excess total claims fee charged herein should be calculated based on the claims as amended in the second Preliminary Amendment filed therewith (the second Preliminary Amendment reduces the total claims in the application to 32, that is, 12 excess claims).

After receiving applicants response, the DO/EO/US charged Deposit Account $130 as the surcharge for the late declaration and $2100 as the fee for excess total claims.

On 13 May 2005, the DO/EO/US mailed a "Notification Of Acceptance (Form PCT/DO/EO/903) identifying 02 May 2005 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371(c) Requirements."

On 23 June 2005, applicants filed the "Request For Fee Refund" considered herein. The refund request seeks a refund of $1500, the amount that applicants assert Deposit Account No. 23-1703 was over-charged with respect to the fee for excess total claims.

DISCUSSION

As noted above, applicants original submission of 10 September 2004 expressly authorized a charge to Deposit Account No. 23-1703 for any applicable excess total claims fee. As of that date, the application contained 42 excess claims, and the applicable fee was $18 for each such claim. Accordingly, the appropriate fee for excess total claims for this application is $756 ($18 multiplied by 42). Applicants' second Preliminary Amendment (filed 02 May 2005), which reduces the number of excess claims herein to 12, does not reduce the number of total claims subject to the excess total claims fee. This is because the authorization to charge the Deposit Account for the excess claims fees, filed 10 September 2004, is considered the date of payment for such fees, and the second Preliminary Amendment was not submitted until months later (see Manual Of Patent Examining Practice § 1893.01(c)).

Based on the above, Deposit Account No. 23-1703 should have been charged $756 as the appropriate fee for excess total claims herein. As set forth in the refund request and noted above, applicants were charged $2100 for this fee.[1] Applicant is therefore entitle to a refund of $1344, the difference between the proper fee of $756 fee and the charged fee of $2100.

[1] This amount was calculated using the current fee of $50 for each excess claim. However, the applicable fee here is $18 for each excess claim, as this was the fee in effect when applicants submitted the authorization to charge for such fees on 10 September 2004.

CONCLUSION

Applicants' refund request is **GRANTED** to the extent discussed herein.

The fee for excess total claims is considered to have been paid on 10 September 2004 when applicants authorized a charge to Deposit Account No. 23-1703 for such fees. At the time of payment, the appropriate amount for this fee was $756 ($18 for each of the 42 excess claims of record at such time).

Deposit Account No. 23-1703 will be credited with a refund of $1344. This amount represents the difference between the appropriate fee for excess total claims herein ($756) and the amount that applicants were previously charged for this fee ($2100).

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

10 AUG 2005

46

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jackson Patent Law Office
211 N. Union Street, Suite 100
Alexandria, VA 22314

In re Application of MAUBANT et al	:	
U.S. Application No.: 10/507,369	:	
PCT Application No.: PCT/FR03/00955	:	DECISION
Int. Filing Date: 26 March 2003	:	
Priority Date Claimed: 27 March 2002	:	
Attorney Docket No.: 161.002	:	
For: STRAIN-MEASURING DEVICE	:	

This is in response to applicant's "Petition to the Director Under 37 CFR 1.181, to Request Withdrawal of Holding of Defective Response" filed 27 June 2005.

BACKGROUND

On 26 March 2003, applicant filed international application PCT/FR03/00955, which claimed priority of an earlier France application filed 27 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 27 September 2004.

On 21 September 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 20 April 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905).

On 13 June 2005, the DO/EO/US mailed a Notification of Defective Response, which indicated that supplemental claims fees are due.

On 27 June 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the preliminary amendment cancelled claims so as to eliminate the excess and multiple claims.

37 CFR 1.121(c) states in relevant part,

> Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

Although the preliminary amendment contains a listing of current claims, the current claims are improperly presented in French. There is no basis for entry in part of such an amendment.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including charging any outstanding balance to Deposit Account No. 10-0077 as authorized in the Transmittal Letter filed 21 September 2004.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

28 AUG 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

JEROME D. JACKSON
JACKSON PATENT LAW OFFICE
211 NORTH UNION STREET, SUITE 100
ALEXANDRIA, VA 22314

In re Application of: MAUBANT, et al
Application No.: 10/507,369
PCT Application No.: PCT/FR03/00955
Int. Filing Date: 26 March 2003
Priority Date Claimed: 27 March 2002
Attorney Docket No.: 161.002
For: Strain-Measuring Device

Adjustment Date: 08/28/2006 SBOSUEIR
08/25/2005 CBURTI 00000004 100077 10507369
625.00 CR

DECISION on
PETITION under
37 CFR 1.181

Adjustment Date: 08/28/2006 SBOSUEIR
08/25/2005 CBURTI 00000004 100077 10507369
180.00 CR

This is in response to Applicant's "Petition to the Director Under 37 CFR 1.181" filed 15 April 2006.

BACKGROUND

On 26 March 2003, Applicant filed international application PCT/FR03/00955, which claimed priority of an earlier French application filed 27 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 27 September 2004.

On 21 September 2004, Applicant filed national stage papers in the United States Designated Elected Office (DO/EO/US). The submission was accompanied by, inter alia, the basic national fee required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 20 April 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905).

On 13 June 2005, the DO/EO/US mailed a Notification of Defective Response, which indicated that supplemental claims fees, in the amount of $805, are due, and that

Applicant must either submit the additional claim fees or cancel the additional claims for which fees are due, within one month from the date of mailing of said "Response".

On 27 June 2005, Applicant filed a petition under 37 CFR 1.181, to withdraw the holding of the "Notification of Defective Response". However, the petition was dismissed, which resulted in the charging of $805 to Applicant's deposit account.

On 10 July 2005, Applicant filed a "Response to Notice of Defective Response", including a preliminary amendment, canceling the claims for which fees were due.

On 01 April 2006, Applicant filed a "Request for Refund of Fees" requesting a refund of the $805 fee that was charged its deposit since Applicant filed a preliminary amendment canceling the claims for which fees were due.

On 15 April 2006, Applicant filed the instant petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that Applicant canceled the claims for which fees are due within the time period set forth by the "Notification of Defective Response" mailed on 13 June 2005. Based on this action, the instant petition and, hence, the request for refund, is properly **GRANTED**. Deposit Account 10-0077 will be credited with the requested $805 refund.

Dionne W. Mayes
PCT Legal Administration Detailee
Telephone: 571-272-6094
Facsimile: 571-273-0459

Boris Milef for
Legal Examiner
Office of PCT Legal Administration

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS	Application No. 10/507,380	Applicant(s) ACHIRON ET AL.	
	Examiner Jennifer Dunston	Art Unit 1636	

Paper No: 20081203

Martin D. Moynihan
D/B/A Prtsi, Inc
P.O. Box 16446
Arlington Va 22215

In re Application of: Archiron *et al.*
Application No.: 10/507,380
Filed: 18 Jul 2005

Attorney Docket No.: 28594
For: **Peripheral Blood Cell Markers Useful For Diagnosing Multiple Sclerosis And Methods And Kits Utilizing Same**

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

Applicant filed a petition 19 Aug 2008 under 37 C.F.R. 1.84 to use color drawings in the application. Applicant has (A) paid the appropriate petition fee; (B) provided three (3) copies of formal color drawings; (C) the black and white photocopy of the drawings in the image file wrapper will suffice for 37 C.F.R. 1.84(a)(2)(iii); but (D) the specification does not contain appropriate language at page 14, line 28+ for incorporation of color drawings under 37 C.F.R. 1.84(a)(2)(iv).

The amendment to the specification to insert the necessary language is not compliant with 37 CFR 1.121. Thus, the amendment has not been entered. Even if the amendment was entered, the amendment does not place the necessary language into the specification as the first paragraph of the brief description of the drawing. Given the above, the petition to accept color drawings, filed 8/19/2008, is denied.

Questions with regard to this letter should be directed to the undersigned as indicated below.

/ Christopher S. F. Low /

Christopher S. F. Low
Supervisory Patent Examiner
TC 1600, Art Unit 1636 (571) 272-0951
Christopher.low@uspto.gov

03 Dec 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

OCT 2 1 2008

Anne Carlson
KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER, SUITE 1600
121 S.W. SALMON STREET
PORTLAND, OREGON 97204

In re Application of	:
YOSHIMURA ET AL.	:Decision on Petition
Serial No.: 10/507,385	:
Filed : September 9, 2004	:
Attorney Docket No.: 4239-64104-02	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on May 15, 2008 requesting review of a lack of unity determination. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/US02/39793 and as such, is eligible for unity of invention practice.

In a written lack of unity determination mailed January 3, 2007, the examiner divided claims 1-45 into seven groups and then requested that applicants select particular species depending on which group was selected. The originally filed claims were misnumbered, as they were missing Claims 34-36. The preliminary amendment renumbered the claims such that there were only Claims 1-42. The examiner provided a prior art reference to support this determination for lack of unity.

On February 5, 2007, applicants elected Group III, claims 11-22, and granulocyte-macrophage-colony stimulating factor, constitutive promoter and CD40 ligand with traverse.

In the first Office action of the merits mailed April 19, 2007, the examiner considered the traversal and made the unity of invention determination FINAL.

Claims 11-22 were examined. Claims 11-16, 21-22 were rejected under 35 USC 102(a) for being anticipated by Kamohara et al. Claims 11-20 were rejected under 35 USC 103(a) as being obvious over Kamohara in view of Lipford.

A response to the Office action was filed on September 19, 2007 where applicants submitted an unsigned statement under 37 C.F.R. 1.497 Regarding Inventorship, consent of Assignee under 37 C.F.R. 1.497, a declaration under 1.132 signed by Yoshimura and an unsigned new Declaration by Dr. Kamohara.

Applicants filed a supplemental response on September 28, 2007 including a signed 1.132 by Dr. Kamohara and a new Declaration by Dr. Kamohara.

On November 29, 2007, the Examiner mailed a non-compliant amendment notice.

On December 28, 2007, Applicant filed a complete listing of the pending claims, as required by the Examiner. This listing of Claims, however added new Claims beginning with Claim 46, rather than beginning with Claim 43. The amendment noted that Claims 43-45 were cancelled, however Claims 43-45 were never pending.

On March 20, 2008 the Examiner mailed a FINAL Office action.

On May 15, 2008, Applicant filed this petition requesting reconsideration under 37 C.F.R 1.144 of the lack of unity requirement.

A Request for Continued Examination was filed on August 20, 2008 along with a Rule 1.48 Request to correct inventorship.

DISCUSSION

Applicants' petition filed May 15, 2008 and the file history have been considered carefully. The petition argues that the unity of invention determination was incorrect because there is a special technical feature which is a contribution over the art.

As provided in the PCT International search and preliminary examination guidelines, paragraph 10.03 provides that Lack of unity of invention may be directly evident "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. For example, independent claims to A + X, A + Y, X + Y can be said to lack unity *a priori* as there is no subject matter common to all claims. In the case of independent claims to A + X and A + Y, unity of invention is present *a priori* as A is common to both claims. However, if it can be established that A is known, there is lack of unity *a posteriori*, since A (be it a single feature or a group of features) is not a technical feature that defines a contribution over the prior art.

Moreover, the PCT International Search and Preliminary Examination Guidelines, published January 2004 provide Example 38 that addresses unity of invention with regard to a method of screening. This example is reproduced below for convenience.

Example 38: Method of Screening and Compounds Identified by the Method

Claim 1: A method to identify compounds that are antagonists of receptor R comprising the steps of contacting cells expressing on their outer membrane receptor R with its natural ligand; observing the binding of the ligand; contacting said cells bound to said ligand with a candidate compound selected from a library of compounds; and observing any change in the binding of the ligand.

Claim 2: Compound X, having formula 1.
Claim 3: Compound Y, having formula 2.
Claim 4: Compound Z, having formula 3.

Receptor R and its natural ligand are proposed as a drug target. Compounds that antagonise receptor R are proposed to have physiological effects that may be useful in therapeutic treatment. The aim is to identify lead compounds as a basis for further screening and testing of combinatorial libraries. A library is described as providing many possible structurally different compounds. Examples show that the method of claim 1 can be used to identify compounds affecting the physiological effect of binding of the natural ligand to the receptor. Only compounds X, Y and Z were shown to have such effects, but they do not appear to share a significant structural element. The description is silent with regard to the both the relationship between the structure and activity of the claimed compounds and the relationship between the structure of receptor R and the structure of the compounds.

Receptor R, its biological function, and its natural ligand are known in the prior art. No compounds that function as antagonists of receptor R are known.

The technical feature of method claim 1 resides in the step of observing the effect of the candidate compounds on ligand binding in a screening assay. Neither the same nor a corresponding special technical feature is present in any of compounds X, Y, or Z. No manufacturing relationship exists between the screening method and the claimed compounds.

Further, the <u>screening method is not a method of using claimed compounds</u> X, Y, and Z. In the absence of any teaching as to the structure required for a compound to act as a receptor R antagonist, there is no single general concept that links the method to the claimed compounds. Thus, unity of invention is lacking (*a priori*).(emphasis added by underlines)

Compounds X, Y, and Z would be regarded as having the same or corresponding technical feature if they had a common property or activity, and shared a significant structural element that is essential to the common property or activity. While compounds X, Y, and Z do share the common property of antagonising receptor R, there is no teaching as to a shared significant structural element, and hence, there is no disclosure of the same or corresponding technical feature.

One possible grouping would be:

Invention 1: Method to identify compounds... (claim 1)
Invention 2: Compound X (claim 2)
Invention 3: Compound Y (claim 3)
Invention 4: Compound Z (claim 4)

In contrast to ISPE Guidelines Example 38, in the instant application, only method claims are presented; there are no claims directed to any products. Determination of unity of invention among method claims generally involves analysis of the active steps required by the methods. In the instant application, the methods of Group I and II do not share a special technical feature with elected Group III for the following reasons. Group III requires the active step of inducing maturation of the immature macrophage or immature dendritic cell whereas Groups I and II do not require any active step of induction. Screening methods, such as Groups I and II are commonly used to both identify compounds with the desired activity, as well as identify compounds which lack the desired activity. Groups I and II in fact are directed to determining whether there is any specific binding to the DDR1. This active step is not required in Group III. For Groups I and II when the screening method is preformed using a candidate compound that is not a DDR1 agent, no induction occurs. Moreover, Group III requires the active step of activating DDR1, which is not required for Groups I or II. Thus, there is no special technical feature to link Groups (I and II) with Group III.

Group V, Claims 26-30, requires administering an agent that specifically binds to DDR1b. This technical feature is not required by any of the other groups.

Group VII, Claims 48-50, requires a different special technical feature not required by the other Groups. Group VII requires contacting a leukocyte with an antibody that specifically binds to DDR1a which is not required by any of the other groups.

For these reasons, Groups I, II, V and VII lack unity of invention with elected Group III.

Turing now to the consideration of unity of invention between Groups III and VI, representative claims from each group are set forth below:

Claim 11, from elected Group III

11. (Previously presented) A method of inducing maturation of an immature macrophage or an immature dendritic cell that expresses Discoidin Domain Receptor 1 (DDR1), comprising:

contacting the immature macrophage or the immature dendritic cell with an effective amount of a DDR1-activating agent, thereby inducing maturation of the immature macrophage or the immature dendritic cell that expresses DDR1.

Claim 31 from non-elected Group VI

31. (Withdrawn) A method of activating a neutrophil or a lymphocyte, comprising activating a Discoidin Domain Receptor 1 (DDR1) signalling pathway in the neutrophil or the lymphocyte, thereby activating the neutrophil or the lymphocyte.

A comparison of Claim 11 and 31 shows that Group VI lacks technical feature with elected Group III. Group VI, Claims 31-33, 46-47, are drawn to activating a DDR1 pathway in the neutrophil or lymphocyte, thereby activating the neturophil or lymphocyte. This feature is not required by Group III. Claim 31 is a method of activating a neturophil or a lymphocyte (B or T cells); this feature is not required by Group VI. Thus, Group III and Group VI lack unity of invention, a priori.

Claim 23, from non-elected Group IV is set forth below:

23. (Withdrawn) A method for producing an antigen presenting macrophage or dendritic cell, comprising

contacting an immature monocyte or an immature dendritic cell with an agent that activates Discoidin Domain Receptor 1 (DDR1) in the presence of an antigen,

thereby producing an antigen presenting mature dendritic cell or an antigen presenting macrophage.

Claim 11 of Group III and Claim 23 of Group IV require contacting the immature macrophage or immature dendritic cell with an effective amount of a DDR1 activating agent to induce maturation of the immature macrophage or the immature dendritic cell that expresses DDR1 or to produce an antigen presenting mature dendritic cell or antigen presenting macrophage. While claim 11 and 23 are worded differently, the technical features required the claims are similar. The specification discloses that "activation of DDR1 by a DDR1-activating agent induces the maturation of a dendritic cell precursor, for example, a monocyte into a macrophage or a dendritic cell. Contacting a dendritic cell precursor with an effective amount of an antigen, in addition to an effective amount of a DDR1-activatign agent, can induce the maturation of the dendritic cell precursor into an antigen –presenting dendritic cell." (pages 2-3, bridging paragraph.) For these reasons, Group IV, Claims 23-25, have unity of invention with originally examined Group III, Claims 11-22 and newly added 55-57.

Further more, 37 CFR 1.475(b) provides guidance concerning various categories of invention permitted for national stage filings under 35 USC 371.

> 1.475 Unity of invention before the International Searching Authority, the International Preliminary Examining Authority and during the national stage
>
> (b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or
(2) A product and process of use of said product; or
(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
(4) A process and an apparatus or means specifically designed for carrying out the said process; or
(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

In this case, the method of screening for an agent and a method of using the agent do not appear to be within any of the combinations of categories listed above, thus a lack of unity of invention is permitted.

DECISION

Accordingly, the petition filed under 37 CFR 1.144 is **GRANTED-IN-PART**.

The restriction requirement is maintained between elected Group III and non-elected Groups I, II, V, VI and VII.

The restriction requirement is withdrawn between elected Group III and Group IV. Groups IV (Claims 23-25) have been rejoined with previously examined Group III (Claims 11-22 and newly added Claims 55-57).

The application will be forwarded to the examiner to consider the request for continued examination filed August 20, 2008, amendment, and Rule 1.48 request to correct inventorship and to prepare an Office action consistent with this petition decision.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600
jb/jg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

MAILED

OCT 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,529,431	:	
Issue Date: May 5, 2009	:	
Application No. 10/507,419	:	ON PETITION
Filed: March 24, 2005	:	
Attorney Docket No. MUE0007	:	

This is a decision on the petition filed August 6, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee and address on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

The petition is not in accordance with 37 CFR 1.4(c), which requires that each distinct subject, inquiry or order be contained in a separate paper to avoid confusion and delay in answering papers of different subjects. Here petitioner files a request to correct assignee name and address, along with a request to change inventor name.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-0602. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

William H. Dippert
Reed Smith
599 Lexington Avenue, 29th Floor
New York NY 10022-7650

COPY MAILED
SEP 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Haim **LIVNE** :
Application No. 10/507,427 : DECISION ON PETITION
Filed: September 10, 2004 : TO WITHDRAW
Attorney Docket No. UEY : 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 11, 2005 and re-submitted June 29, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because 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.

Please note that filing date and attorney docket number submitted with request do not match those of record.

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 Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM H. DIPPERT
REED SMITH
599 LEXINGTON AVE, 29TH FLOOR
NEW YORK, NY 10022-7650

COPY MAILED

JAN 10 2008

OFFICE OF PETITIONS

In re Application of :
LIVNE, Haim :
Application No. 10/507,427 :
Filed: September 10, 2004 :
Attorney Docket No. **UEY** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 2, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, "consistent with discussions with former client, files were transferred to a new firm", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM H. DIPPERT
REED SMITH
599 LEXINGTON AVE, 29TH FLOOR
NEW YORK, NY 10022-7650

COPY MAILED

FEB 06 2008

OFFICE OF PETITIONS

In re Application of

LIVNE, Haim
Application No. 10/507,427
Filed: September 10, 2004
Attorney Docket No. **UEY**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 28, 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 William H. Dippert 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HAIM LIVNE**
36/17 ROTHSCHILD STREET
KFAR SBA, ISREAL 44449

cc: **HEWLETT PACKARD COMPANY**
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

10 AUG 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

In re Application of HOBMEIER et al	:	
U.S. Application No.: 10/507,438	:	
PCT Application No.: PCT/EP03/02433	:	DECISION
Int. Filing Date: 10 March 2003	:	
Priority Date Claimed: 12 March 2002	:	
Attorney Docket No.: 2732-142	:	
For: DEVICE FOR HANDLING BANKNOTES	:	

This is in response to applicant's "Response to Notification of Missing Requirements and Request for Correction of Inventorship Under 37 CFR §1.497(d)(1)" filed 05 July 2005.

BACKGROUND

On 10 March 2003, applicant filed international application PCT/EP03/02433, which claimed priority of an earlier Germany application filed 12 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 13 September 2004 (12 September 2004 was a Sunday).

On 13 September 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 execute declaration.

On 06 May 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 the declaration filed 13 September 2004 lists an inventor who was not listed in the international application.

On 05 July 2005, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, the requisite written consent of the assignee has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 March 2003, and a date under 35 U.S.C. 371(c) of 13 September 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

25 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Rocco S Barrese
Dilworth & Barrese
333 Earle Ovington Blvd
Uniondale NY 11553

In re Application of	:	
PFAUS	:	
Application No.: 10/507,439	:	DECISION
PCT No.: PCT/EP03/02442	:	
Int. Filing Date: 10 March 2003	:	
Priority Date: 12 March 2002	:	
Attorney Docket No.: 298-261	:	
For: DEVICE FOR MANUALLY SHARPENING	:	
KNIVES AND OTHER BLADES, COMPRISING	:	
INTERCHANGABLY MOUNTED HARD METAL	:	
PLATES	:	

This decision is in response to applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 18 November 2004.

BACKGROUND

On 10 March 2003, applicant filed international application PCT/EP03/02442, which designated the U.S. and claimed a priority date of 12 March 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 September 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 September 2004 (12 September 2004 being a Sunday).

On 13 September 2004, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 November 2004, applicant filed the instant submission which was accompanied by, *inter alia*, a request for refund and an assertion of small entity status.

DISCUSSION

The request for refund filed 18 November 2004 in effect requests a refund of one-half of the fees submitted on 13 September 2004 and is accompanied by an assertion of small entity status. A refund pursuant to 37 CFR 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under 37 CFR 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. 37 CFR 1.28(a).

Here, an assertion of small entity status under 37 CFR 1.27(c) and a request for refund of the excess amount have been filed within three months of the timely payment of the full fee. Accordingly, Deposit Account 04-1121 has been credited $460.

CONCLUSION

The request for refund under 37 CFR 1.26 is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JENKINS, WILSON & TAYLOR, P. A.
3100 TOWER BLVD
SUITE 1400
DURHAM NC 27707

COPY MAILED

DEC 07 2005

OFFICE OF PETITIONS

Applicant: Ji et al.
Appl. No.: 10/507,452
Filing Date: April 12, 2005
Title: HYDROPHILIC POLYMER DERIVATIVE WITH Y TYPE BRANCH AND PREPARATION METHOD OF IT MEDICAL CPMPOSITE COMPRISING ABOVE COMPUND
Attorney Docket No.: 1547/3
Pub. No.: US 2005/0180946 A1
Pub. Date: August 18, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 18, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error, as the title on the front page of the publication "HYDROPHILIC POLYMER DERIVATE WITH Y TYPE BRANCH AND PREPARATION METHOD OF IT MEDICAL COMPOSITE COMPRISING ABOVE COMPOUND" is misprinted as "HYDROPHILIC POLYMER DERIVATIVE WITH Y TYPE BRANCH AND PREPARATION METHOD OF IT MEDICAL CPMPOSITE COMPRISING ABOVE COMPUND ."

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]

[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 error noted by requestor wherein the title is misprinted is an Office error but the mistake is a minor typographical error, which is clearly understandable to one of ordinary skill in reading the specification and the claims. The mistake is a minor typographical error, which is clearly understandable from reading the application, as terms are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On April 22, 2005, a Filing Receipt was mailed, which listed the title with the misspelled words. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

It would greatly benefit the Office if applicant did not provide a complete copy of the publication, as the Office already has a copy and it unnecessarily increases the cost to the Office. A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy